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DESIGNATION OF BENEFICIARY

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HEARING BEFORE THE SUBCOMMITTEE ON RETIREMENT, INSURANCE, AND HEALTH BENEFITS OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 432

A BILL TO AMEND THE FEDERAL EMPLOYEES' GROUP LIFE
INSURANCE ACT OF 1954 AND THE CIVIL SERVICE RETIRE-
MENT ACT WITH REGARD TO FILING DESIGNATION OF
BENEFICIARY, AND FOR OTHER PURPOSES

MAY 18, 1965

Printed for the use of the Committee on Post Office and Civil Service



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CONTENTS

	Page
Statement of—	
American Federation of Government Employees-----	11
Lewis, J. Stanly, secretary-treasurer, National Association of Letter Carriers-----	9
McCart, John A., operations director, Government Employees' Coun- cil, AFL-CIO-----	10
Ruddock, Andrew E., Director, Bureau of Retirement and Insurance, U.S. Civil Service Commission-----	2

DESIGNATION OF BENEFICIARY

TUESDAY, MAY 18, 1965

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RETIREMENT, INSURANCE, AND
HEALTH BENEFITS OF THE COMMITTEE ON
POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 219, Cannon House Office Building, Hon. Dominick V. Daniels (chairman of the subcommittee) presiding.
(H.R. 432 follows:)

[H.R. 432, 89th Cong., 1st sess.]

A BILL To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first item of the order of precedence in section 4 of the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2093), is amended to read as follows:

"First, to the beneficiary or beneficiaries as the employee may have designated by a signed and witnessed writing received prior to death in the employing office or, if insured because of receipt of annuity or of benefits under the Federal Employees' Compensation Act as provided in section 6(b) or 6(c) of this Act, in the Commission. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;".

SEC. 2. The first item of the order of precedence in section 11(c) of the Civil Service Retirement Act, as amended (5 U.S.C. 2261 (c)), is amended to read as follows:

"First, to the beneficiary or beneficiaries as the employee or Member may have designated by a signed and witnessed writing received in the Commission prior to his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;".

Mr. DANIELS. The Subcommittee on Retirement, Insurance, and Health Benefits is meeting this morning to receive testimony on H.R. 432, a bill to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

H.R. 432, which I introduced, is identical to H.R. 10038 of the 88th Congress, based on an official recommendation of the U.S. Civil Service Commission in that Congress. Its purpose is to clarify the intent of the Congress with respect to the designation of beneficiaries under the Federal Employees' Group Life Insurance Act. Clarifying legislation is needed because of conflicting court decisions. Failure to correct the conflict by legislation undoubtedly will lead to expensive and vexatious litigation in a number of future settlements under the Insurance Act.

The Federal Employees' Group Life Insurance Act authorizes any insured employee to designate a beneficiary in a writing filed with his or her agency and, in the absence of such a written designation, spells

out six other classes of contingent beneficiaries in a specified order of precedence. It contains no other provision for designation of a beneficiary, but authorizes the Civil Service Commission to regulate the filing of designations of beneficiaries and of changes therein.

The Civil Service Commission regulations issued under such authority, inter alia, recognizes a change of beneficiary made in a will or other document only if witnessed and filed with the employing agency or the Commission. This is in complete accordance with the intention of our committee and of the Congress in writing the Insurance Act.

Notwithstanding the foregoing, the U.S. Court of Appeals for the Ninth Circuit in *Austin v. Sears* (292 F. 2d 690) held that a beneficiary named in a will was entitled to payment as a designated beneficiary under the act. The effect is to recognize such a designation even though the filing requirement of the Commission's regulations was not met.

A contrary—and, in fact, correct—decision was handed down by the U.S. District Court, Southern District of New York, in *Menzel v. United States*. This decision, in effect, upheld the Commission's filing regulation. The Supreme Court of Pennsylvania in *Breckline v. Metropolitan* followed the latter decision, after considering and, in effect, rejecting the *Sears* ruling.

H.R. 432 will clear up any further doubt and facilitate the orderly and economical administration of the Federal Employees' Group Life Insurance Act.

Our first witness this morning is the Honorable John W. Macy, Jr., Chairman of the U.S. Civil Service Commission.

I understand Mr. Ruddock is appearing in his place. Will you step forward, Mr. Ruddock?

STATEMENT OF ANDREW E. RUDDOCK, DIRECTOR, BUREAU OF RETIREMENT AND INSURANCE, U.S. CIVIL SERVICE COMMISSION

Mr. DANIELS. It is always a pleasure to welcome you here.

Mr. RUDDOCK. Thank you, Mr. Daniels. My statement will be brief.

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to testify for the Civil Service Commission in support of H.R. 432, and wish to thank you, Mr. Daniels, for having introduced the bill.

Chairman Macy's letter of April 22, 1965, to Chairman Murray of the full committee explains the need for this legislation and contains the Commission's recommendation for its enactment. If you agree, Mr. Chairman, I believe it would be well to incorporate that letter in the record at this point.

Mr. DANIELS. Without objection, so ordered.

(The letter referred to follows:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 22, 1965.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

DEAR MR. CHAIRMAN: This refers further to your letter of January 11, 1965, requesting Commission report on H.R. 432, a bill to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

Section 1 of H.R. 432 is designed to clarify beyond any possibility of misinterpretation the intent of the legislative body that a designation of beneficiary under the Federal Employees' Group Life Insurance Act is required to be filed with the employing office prior to the death of the designator. This legislative proposal was submitted to the 88th Congress by the Commission, resulting in the introduction of H.R. 10038, H.R. 10171, and S. 1974. The House bills added provision for a similar Civil Service Retirement Act amendment now contained in section 2 of H.R. 432. We concur in extending this clarification to the Retirement Act. Public hearing was held on S. 1974 on February 10, 1964, following which the bill was reported by the Senate Committee on Post Office and Civil Service on August 18, 1964, and passed by the Senate on August 19, 1964. House action was not completed on the legislation, however, and it failed of enactment in the 88th Congress.

Section 4 of the Federal Employees' Group Life Insurance Act (5 U.S.C. 2093) specifies an order of precedence for payment of the insurance in force on any employee at death, the first order reading:

"First to the *beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death*," [Emphasis supplied.]

Section 4 then enumerates the other classes of contingent beneficiaries in the following order of precedence:

- (2) Widow or widower.
- (3) Children or descendants by representation.
- (4) Parents or surviving parent.
- (5) Executor or administrator.
- (6) Other next of kin under law of decedent's domicile at time of death.

Except for the cited language underlined above, the act is silent regarding beneficiary designations, and in exercise of its regulatory authority under section 11 of the law (5 U.S.C. 2100), the Commission adopted a regulation (5 CFR 870.901) to govern the filing and change of insurance designations. This regulation, having the force and effect of law, reads in pertinent part as follows:

"(a) The designation of beneficiary shall be in writing, signed, and witnessed, and received in the employing office (or, in the case of (1) a retired employee and (2) an employee whose insurance is continued while he is receiving benefits under the Federal Employees' Compensation Act * * *, in the Commission) prior to the death of the designator.

"(b) No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by the regulations in this part, shall have any force or effect."

Section 11 of the group life insurance policy purchased by the Commission from Metropolitan Life Insurance Co. to carry out this program contains similar provisions.

On June 20, 1961, the U.S. Court of Appeals for the Ninth Circuit in the case of *Austin v. Sears* (292 F. 2d 690) held that a beneficiary named in a will was entitled to payment as a designated beneficiary under the act. The court stated in pertinent part:

"Defendants have * * * contended that a designation of beneficiary by will is ineffective in the instant case. No *express* prohibition in this regard is found in the policy, in the certificate handed the insured, or in the statutes creating Federal employees' group life insurance * * *." [Emphasis supplied.]

In effect, the judgment held as of no consequence the statutory and regulatory requirement of filing a designation prior to death and ignored the order of precedence stipulated in the act.

A contrary and, in our opinion, correct conclusion was reached by the U.S. District Court, Southern District of New York, in the case of *Menzel v. United States*, involving interpretation of a similar provision in the Civil Service Retirement Act. On March 22, 1961, the court recorded the following conclusion of law.

"The will of Ernest Sunday executed December 23, 1938, was never filed with the U.S. Civil Service Commission and was not a legal or proper designation of his estate or of the executrix of his will, or of the residuary legatee named therein, as a beneficiary under the provisions of the U.S. Civil Service Retirement Act" after rationalizing as follows:

"The benefits under the Retirement Act are statutory; and in order to have a right to receive them, a claimant must show that all that the statute required to be done to entitle the claim to favorable consideration was in fact done. A disposition or intention or intention on the part of a deceased employee spelled out from other documents or circumstances is not sufficient. * * * But the fact

remains that Ernest Sunday did not do the thing he should have done and did not file the designation he should have filed in order to deprive his wife of any interest in the said fund, after the amendment of the act dated June 14, 1950. The statute establishes the rights of the parties and specifies how those rights may be created, either by a compliance with the provisions of the act in filing a proper designation of a specific beneficiary or, on a failure to do so, by permitting the order of precedence set forth in the act at the time of the employee's death to become operative."

Similarly, the Supreme Court of Pennsylvania in *Breckline v. Metropolitan*, after considering *Austin v. Sears* but holding it not persuasive, held (March 13, 1962, 178 A. 2d 748) invalid under the Insurance Act a designation of beneficiary not filed in the employing office prior to the designator's death.

A small but steadily increasing number of court actions involving similar circumstances are being brought by claimants under the act. If the principle laid down in *Austin v. Sears* stands and is followed by the courts in other cases, the Commission or Metropolitan Life Insurance Co. could never be sure, with the overhanging threat of possible conflicting provisions in a will, that an insurance payment made in accordance with the law is correct. At the present time life insurance benefits are paid to the persons entitled promptly after the death of the insured. If the doctrine of *Austin v. Sears* prevails, it will be necessary to delay payment in every case to provide the opportunity, even investigating or soliciting information in the area, for every person who may possess a document which might affect the determination of payee to present the paper for consideration. This would work a severe financial hardship on the family of the decedent at a time when unusual expenses have been incurred in connection with the last illness and burial of the former employee.

The requirement of filing a beneficiary designation with the agency (or with the Commission after retirement) is a reasonable one, preventing to a limited extent deathbed designations often executed under stress or influence by a designator in extremis or not in full possession of his faculties.

The Commission desires to have a uniform practice in the cases arising in this area to avoid misunderstanding and litigation. The time-consuming administrative problems which arise from such a situation can be avoided by amendment explicitly stating congressional intent with regard to filing a designation of beneficiary.

Enactment of H.R. 432 will not result in any cost to the Government, but will produce an administrative saving in connection with adjudicating claims and should eliminate litigation in this area. The Commission recommends its early enactment into law.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

JOHN W. MACY, Jr., *Chairman*.

Mr. RUDDOCK. The Federal Employees' Group Life Insurance Act provides for payment first to the beneficiary "designated by a writing received in the employing office prior to death" of the insured.

The act then enumerates the other classes of persons entitled to payment, in the absence of a designated beneficiary, in the following order:

Second, widow or widower;

Third, children or their descendants by representation;

Fourth, parents or the surviving parent;

Fifth, executor or administrator; and

Sixth, other next of kin under law of the State of domicile at death.

The designation of a beneficiary is purely optional and insured employees are counseled that it is not necessary to designate if the order of payment satisfactorily covers their particular situations. Where a designation is made, however, it is important to the insured, to the beneficiary, and to the office settling the claim, that there be clear and understandable rules on the filing of a valid designation. To afford such a clear-cut rule, the Commission has issued regulations detailing the requirements that the designation be in writing, signed

and witnessed, and filed with the employing office; or, for insured retirees or Compensation Act beneficiaries, with the Commission, prior to the death of the designator. In addition the regulation, but not the act itself, specifically bars recognition of any change or cancellation of beneficiary in a will or other document not so filed with the employing office.

Despite these precautions, a difficulty arose in the form of a 1961 court decision. In the case of *Austin v. Sears*, the U.S. Court of Appeals for the Ninth Circuit held that a person named in a will not filed with the Commission was entitled to be considered the designated beneficiary for purposes of the insurance payment. While this decision was of a sympathetic nature and other court decisions are to the contrary, upholding the act and regulations, the Commission decided it should seek legislation to make the filing requirements statutory and literal beyond question.

The Commission submitted legislation to amend the Insurance Act to the 88th Congress. The bill, S. 1974, passed the Senate, but no action was taken by the House of Representatives. Last year, however, the staff of your committee suggested that the perfecting change be added to the Civil Service Retirement Act as well. The Commission is in agreement with this constructive suggestion and has recommended that the retirement act change be included.

The Commission believes that enactment of H.R. 432 will produce several beneficial results:

1. It will state a clear rule which will minimize misunderstanding on the part of employees and their beneficiaries.
2. It will help avoid costly appeals and litigation by clarifying the statutory intent.
3. It will facilitate prompt settlement of claims by eliminating the risk of possible conflicting provisions in a will or other document not filed as required. Conversely, it will avoid those delays which would occur if it were necessary to wait for assurance that the latest document is at hand.
4. It will not result in any added Government cost. Some slight administrative savings will result.

The Commission respectfully urges favorable action on H.R. 432.

Mr. Chairman, in summary, the position of the Commission is that the rule itself is not nearly so important as is the necessity to have a rule which is positive and definite.

The adjudicating office, we think, needs to be in a position to know that this is the rule. Payment can be made promptly upon the death of the insured, with assurance that this payment will be to the right person, and that there is no uncertainty or confusion as to what the rule may be.

Mr. DANIELS. Mr. Ruddock, the chairman wholeheartedly agrees with your views on this subject, and for that reason the chairman introduced this bill earlier in the session. I would like to know, however, if there are any claims pending now with respect to the matter that is in issue here.

Mr. RUDDOCK. I am not aware of any court actions pending at the present time. However, we do not necessarily become aware of each court suit which arises under the Federal Employees' Group Life Insurance Act. Under that act, the Civil Service Commission has a contract with Metropolitan Life Insurance Co. They act in behalf

of the insurance industry. There are 254 other life insurance companies acting as reinsurers, but the Metropolitan Life Insurance Co. does all the adjudication of the life insurance claims.

When a claim is filed with them, and a record claim is filed by a person with a conflicting interest, their ordinary course of action would be to interplead the matter, frequently in a local court. The Commission is not a party to those actions and, except as we request information on what litigation is pending, we are not aware of each individual suit. However, the potential for litigation exists at all times.

Mr. DANIELS. Well, it's understandable that conflicts could arise by virtue of this provision.

Mr. RUDDOCK. Could very easily arise. If the rule is positive and definite that the designation of beneficiary, to be valid, must be filed in the employing office, then there is one place to look. If there is no designation in that place, then you can immediately proceed to make a valid payment to the widow, and you need not wait to see whether a will is found in the bureau drawer or filed away in a suitcase, or wherever it might be.

Incidentally, only about 5 percent of employees find it necessary to file a designation of beneficiary. The order of precedence specified in the law takes care of most family situations.

Mr. DANIELS. Mr. Matsunaga. Do you have any questions?

Mr. MATSUNAGA. Thank you, Mr. Chairman. Mr. Ruddock, in that *Sears* case, had there been a designation of any beneficiary?

Mr. RUDDOCK. No, sir; there had been no designation filed with the employing office while Mr. Sears was employed, nor was one filed with the Commission after he retired.

Mr. MATSUNAGA. In such a case, under the present statutes, would you follow the order of succession as stated in the State law?

Mr. RUDDOCK. No; the order of precedence in the Insurance Act would govern. Where there is no designated beneficiary, the payment would be made first to a surviving spouse; if none, then to surviving parents.

Mr. MATSUNAGA. You do have an order of succession within the insurance law itself?

Mr. RUDDOCK. Yes. Fifth in that order of precedence is the executor or administrator of the estate, so, if there was no designated beneficiary, no surviving widow, no children, and no surviving parents, then payment would be made to the executor or administrator of the estate, and he would dispose of the proceeds as designated by will or under the intestate laws, if there were no will.

Mr. DANIELS. That order of precedence is clearly set forth in the statute today, is it not?

Mr. RUDDOCK. Yes, it is. The order of precedence, by the way, resulted from our experience in the administration of the Civil Service Retirement Act. Prior to 1950, there was a requirement that every Federal employee file a designation of beneficiary for retirement purposes. We accumulated a file of approximately 5½ million designations at a time when there were only about 1½ million Federal employees, but designations accumulated over the years because of turnover.

In going through the file, we found that where employees did designate, almost without exception they designated a wife or husband, if there was one. If they had no wife or husband, the person design-

nated was usually a child. And so, the order of precedence now spelled out in both the Retirement Act and the Life Insurance Act follows the natural wishes of the vast majority of Federal employees.

Mr. DANIELS. Mr. Matsunaga, do you yield?

Mr. MATSUNAGA. Yes.

Mr. DANIELS. That order of precedence is set forth in section 4 of Public Law 598 of the 83d Congress.

Mr. MATSUNAGA. In the event of conflict, Mr. Chairman, between the succession laws of the State and the Federal statute here involved, which would prevail?

Mr. DANIELS. The statute—no. You mean the statutory law of the State?

Mr. MATSUNAGA. The succession laws of the State, in the event of nondesignation of a beneficiary.

Mr. DANIELS. This is incorporated in the statute, so therefore the statute would prevail and have precedence.

Mr. RUDDOCK. My opinion would confirm that, Mr. Chairman. The Federal statute would require the payment to be in the order of precedence spelled out in the Federal statute.

Mr. MATSUNAGA. But then the issue arose in the *Sears* case, did it not?

Mr. RUDDOCK. The issue arose in the *Sears* case because the court said, in effect, this provision which is in a will, which Mr. Sears filed, will be considered as if it were a designation of beneficiary for purposes of the Life Insurance Act.

Mr. MATSUNAGA. Had the court not so ruled, under the statute, who would have received the insurance funds?

Mr. RUDDOCK. It would have gone, as I remember it, to the son and daughter of Mr. Sears in equal shares. I believe he was not survived by a widow. That's my recollection of the facts in that particular case.

Mr. MATSUNAGA. But instead the court ordered that it be paid to the one named in the will.

Mr. RUDDOCK. That's right. There was a conflicting decision, a later decision, in *Breckline v. Metropolitan*, which was a determination on precisely the same point under the Civil Service Retirement Act. In that case, the court upheld the statute and the regulations, and it was from that point on, in 1961, that we became slightly uncertain as to which rule is the definite rule that will be followed.

We are still proceeding to follow the rule as we understand the law, and the regulations, and are not following the decision of *Austin v. Sears*.

Mr. MATSUNAGA. This, Mr. Chairman, we can take up in executive session, but don't you feel that, Mr. Ruddock, even if we pass this bill, there would still be a possible conflict between State law and Federal statutes? Laws of succession, as you know, are determined by State law, and, well, it may be that some States would decide that the Federal Government cannot, by statute, abrogate State laws of succession.

Mr. RUDDOCK. Well, I believe this would be considered dicta, but part of the reasoning in *Breckline v. Metropolitan* was that, since it is a Federal statute which establishes this insurance fund, that the money being paid is derived from a Federal statute, there can be no question of the supremacy of the Federal statute, if there were a conflict of laws.

Austin v. Sears did not involve the point of a conflict between Federal and State law; even under the Federal law, if payment is made to the executor or administrator, or if payment is made to the next of kin, that payment is made precisely in accordance with the terms of the State law.

Mr. MATSUNAGA. Well, supposing there is a conflict in the order of succession.

Mr. RUDDOCK. We would hold the beneficiary designated according to the law to be the first to be paid. We would proceed next to the widow or the widower, and next to the surviving children, and next to parents.

Mr. MATSUNAGA. That's according to the statute. But suppose, let's say, in the State of Hawaii, the law of succession provides that personality will go, as this would be the case, that is, insurance returns: one-half to the widow, and one-half to the children equally, whereas the statute would provide all to the widow, right?

Mr. RUDDOCK. Yes, if there were no designated beneficiary.

Mr. MATSUNAGA. There is this conflict, then. Suppose he fails to designate a beneficiary by notice to the agency, then he dies intestate, and then you have the conflict: Which is to prevail, the statute?

Mr. RUDDOCK. You certainly raise an interesting question.

Mr. DANIELS. If I may interrupt, I would like to say that I don't believe there is any conflict. In the first place, the insurance comes into existence by virtue of Federal statute, and the statute sets forth specifically the order of beneficiaries, in the absence of the insured designating a beneficiary. So, therefore, the statute would apply.

Second, I would like to state that there is no conflict with State law because the parties have entered into a contract, and the contract sets forth exactly the same provisions as are set forth in the statute, that the insured may designate a beneficiary, but in the absence of such designation, then the following people shall inherit in the order set forth in the contract. So, therefore, you not only have the statute, but you have the contract existing between the parties.

Mr. MATSUNAGA. But then the contract was abrogated by the *Sears* case because, as I understand it from what little I have heard here, in the *Sears* case there was a will written, designating someone other than a person who would have properly taken by the statute.

Mr. DANIELS. That decision was rendered in 1961, but subsequently—

Mr. MATSUNAGA. I think what we ought to make clear in the statute itself is that it prevails, regardless of State laws. Unless we specifically so state, I am afraid that we are going to have State courts deciding in favor of the State laws of succession, just as in the *Sears* case where it was indicated that, because of the State law providing that the person designated by the will shall prevail, the person so named prevailed.

Mr. RUDDOCK. Congressman, you have raised an extremely interesting point, one that I had not heard raised before. I am trying to reflect from my study of conflict of laws in law school—but that was a long time ago—and if I remember correctly, any time there is a direct conflict of law between the Federal and a State statute, the State statute must fall. The Federal statute will govern in any direct conflict.

Mr. MATSUNAGA. Not in the case of laws of succession. Anyhow, it is an interesting question which we can take up in executive session,

but I think if we wish to avoid this situation we are going to have to so specify. If the Federal Government, if Congress, intends to preempt this field, then it should so indicate. And if it is the intention of Congress to preempt it, we must so specifically indicate. Then there is no question.

Mr. DANIELS. Off the record.

(Discussion off the record.)

Mr. MATSUNAGA. No further questions.

Mr. DANIELS. I think that the point has been brought out in this discussion between Mr. Matsunaga and myself. What I had intended to ask was this: Do the policies that are issued contain the clause setting forth the line of precedence with respect to beneficiaries; that is, does it give the insured the right to designate a beneficiary in writing? And in the absence of such designation, that the proceeds of the policy would inure, first, to the benefit of the widow or widower; second, to the children or their descendants by representatives; third, to the parents or the surviving parent; fourth, to the executor or administrator; and fifth, to other next of kin under the law of the State of domicile at death.

Mr. RUDDOCK. This is spelled out in detail in the insurance certificate which is given by the employing agency to the employee at the time he becomes insured. It is also spelled out specifically and in detail in the group policy which is between the Civil Service Commission and the Metropolitan Life Insurance Co.

Mr. DANIELS. In addition, it is in the statute thereunder under which this insurance is written.

Mr. RUDDOCK. Yes, sir; and in the regulations of the Commission.

Mr. DANIELS. The next witness is Mr. Stanly Lewis.

STATEMENT OF J. STANLY LEWIS, SECRETARY-TREASURER, NATIONAL ASSOCIATION OF LETTER CARRIERS

Mr. LEWIS. Good morning, Mr. Chairman and members of the subcommittee. My name is Stanly Lewis. I am the secretary-treasurer of the National Association of Letter Carriers, and I am pleased to have the opportunity of appearing before your group this morning for the purpose of giving the position of our organization of letter carriers on this legislation.

We desire to associate ourselves both with the chairman who introduced H.R. 432 and with the Civil Service Commission which recommended its passage.

We believe that this legislation will be most helpful in clearing up some areas where there is some doubt now and where there might be some delay in paying benefits to which certain deceased employees' survivors are entitled.

I want to congratulate the committee on having this hearing and place ourselves on record as supporting it.

Mr. DANIELS. Thank you, Mr. Lewis.

Mr. Matsunaga, do you have some questions?

Mr. MATSUNAGA. You are in full support, Mr. Lewis?

Mr. LEWIS. Yes, Mr. Matsunaga.

Mr. MATSUNAGA. You have no questions about the questions raised here earlier?

Mr. LEWIS. Not being a lawyer myself, the things you raised were pretty technical decisions. I listened with great intent to the dis-

cussion and, from a layman's point of view, I find myself in accord with the expressions given by Mr. Daniels and Mr. Ruddock. However, as I say, not having a legal background, I am in no position to have a firm opinion or an authoritative opinion on this matter.

Mr. MATSUNAGA. We normally would not expect a decision such as in the *Sears* case. What I was trying to emphasize is that we need to take care of any eventuality.

Mr. LEWIS. I think the point Mr. Ruddock made is that this is establishing a rule, whether the rule be this way or that way, and I believe this legislation would serve that purpose of establishing a rule.

Of course, any rule could be tested by the courts at a later time, and proved to be faulty or correct; but this is something that only can be accomplished by that rule.

Mr. MATSUNAGA. No further questions.

Mr. DANIELS. Mr. Clevenger?

Mr. CLEVINGER. No questions, Mr. Chairman.

Mr. DANIELS. Thank you, Mr. Lewis.

We had scheduled as our last witness Mr. McCart. I understand he is unable to appear here today, but has submitted a statement which will be filed with the record of this hearing, if there is no objection.

Also, for the record, a statement has been submitted by Mr. John Griner, president, American Federation of Government Employees.

These statements will be offered for the record, if there is no objection.

(The statements follow:)

STATEMENT OF JOHN A. MCCART, OPERATIONS DIRECTOR, GOVERNMENT
EMPLOYEES' COUNCIL, AFL-CIO

Mr. Chairman and members of the subcommittee, the Government Employees' Council, representing 31 AFL-CIO unions with members in the classified, wage board, and postal services, desires to endorse the proposal embodied in H.R. 432.

The bill will provide needed clarification in the present Federal Employees' Life Insurance Act, will insure equity to the beneficiaries of employee policies and will facilitate the administration of the program by the Civil Service Commission.

The present statute requires payment upon the death of the employee first to the individual or individuals designated in writing by the insured and deposited with the employee's agency prior to his death.

In instances where the deceased employee has designated a beneficiary in his will, Federal courts have adopted different interpretations on the application of the law. A U.S. court of appeals, for example, found in one case that the person named in a will was entitled to payment as beneficiary of a deceased Federal worker's insurance policy, despite the order of precedence supplied in the act. Federal and State courts have decided other similar cases on the contrary view that the precedence listed in the original act prevails, regardless of whether the decedent names another beneficiary in a will or other document.

There are several undesirable effects from these differing interpretations. If the courts continue to require recognition of designees in wills counter to the order of precedence supplied in the present law or to recognize the individual designated in a will, who is not the same as the one named earlier by the employee to his agency, a considerable degree of uncertainty will be forced upon the Civil Service Commission in making payments upon the death of the employee. It will have no assurance that payments proffered in accordance with the present statute will be accepted by a court as legally correct. It will have to delay payments in many cases until a determination has been made about the existence of a will or other disposition of an employee's estate. This could cause serious hardship to the family of an employee at a time when the financial need may be the greatest.

In our view, it is necessary that there be a clear-cut legal definition of the order of beneficiaries so as to avoid confusion and additional suits. H.R. 432 accomplishes this objective by making it clear that a designation document filed

after an employee's death or filed in an improper place will not supersede a previous legal designation or the order of precedence prescribed in the act.

We urge the subcommittee to take favorable action on the pending bill.

Mr. Chairman, the Government Employees' Council appreciates the opportunity to offer its comments on the measure under consideration.

STATEMENT OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The bill H.R. 432 has the support of the American Federation of Government Employees because it provides a protection for the employee as well as the beneficiary he designates.

The sponsor of the bill, Representative Daniels, chairman of the Retirement Subcommittee of the House Post Office and Civil Service Committee, has done a real service to employees covered by both the Group Life Insurance Act and the Retirement Act in proposing the amendment to these laws.

The amendment proposed is a perfecting amendment which gives specific preference in a settlement under the Group Life Insurance Act or a lump-sum benefit under the Retirement Act to the beneficiary or beneficiaries designated as required in the bill and filed with the employing office in the case of the Life Insurance Act, or with the Civil Service Commission in the case of the Retirement Act.

The proposed amendment to these two laws would not change the existing order of payment now provided by these statutes. It would, however, give unmistakable recognition to the designation of one or more beneficiaries which had been properly executed and filed as opposed to a later change in a will or other document which had not been filed as directed in the proposed amendment.

The intended change in these two laws would put the courts on notice that a designation of beneficiary properly executed and filed would take precedence over any other document. The wording in the bill which provides this clarification of these laws is that which appears in the last sentence of the amendment to each law: "For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect."

These laws already provide for payment first to a beneficiary or beneficiaries and then to specifically named relatives or a legal representative and finally to next of kin. It had appeared that since the beneficiary was named first, payment would be made to that individual. However, one Federal court of appeals decision (*Austin v. Sears*, 292 F. 2d 690) upheld the claim of a different individual named in the will of a deceased employee as the one who was entitled to payment. This raised a question as to the need for amending these laws to eliminate confusion as to who should receive payment.

While the bill would not change the order of precedence of payment, it would have the effect of expediting payment by clearing up any conflict as to the validity of the document which is to govern payment. As between a designation of beneficiary which had been signed, witnessed, and filed, and a change of beneficiary in a later will or other document not filed with the employing office or the Commission, the designation on file would have precedence.

It is plain that the proposed amendments are both important and urgent, and for those reasons they should be enacted without delay. Enactment obviously would clear up any conflict in claims and would entail no cost to the Government. In fact, it would result in a saving by reducing unnecessary administrative action and eliminating possible litigation.

We appreciate the opportunity to submit this statement, Mr. Chairman.

Mr. DANIELS. That concludes today's hearing.

(Whereupon, at 10:40 a.m., Tuesday, May 18, 1965, the subcommittee adjourned.)

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LEGISLATIVE HISTORY

Public Law 89-373
H. R. 432

TABLE OF CONTENTS

Index and summary of H. R. 432	1
Digest of Public Law 89-373	2

INDEX AND SUMMARY OF H. R. 432

Jan.	4, 1965	Rep. Daniels introduced H. R. 432 which was referred to House Post Office and Civil Service Committee. Print of bill as introduced.
May	20, 1965	House committee voted to report H. R. 432.
June	10, 1965	House committee reported H. R. 432 without amendment. H. Report No. 508. Print of bill and report.
June	21, 1965	House passed H. R. 432 without amendment.
June	22, 1965	H. R. 432 was referred to the Senate Post Office and Civil Service Committee. Print of bill as referred.
Mar.	9, 1966	Senate committee voted to report H. R. 432.
Mar.	10, 1966	Senate committee reported H. R. 432 without amendment. S. Report No. 1064. Print of bill and report.
Mar.	14, 1966	Senate passed H. R. 432 without amendment.
Mar.	23, 1966	Approved: Public Law 89-373.

Hearing: H. Post Office and Civil Service
Committee on H. R. 432.

DIGEST OF PUBLIC LAW 89-373

FEDERAL EMPLOYEES' LIFE INSURANCE BENEFICIARIES. Amends the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act to provide that life insurance and lump-sum benefits shall be paid according to statutory order of precedence and shall exclude any designation or change of beneficiary in any will or other writing not properly executed and filed in the employing office or the Civil Service Commission.

89TH CONGRESS
1ST SESSION

H. R. 432

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1965

Mr. DANIELS introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first item of the order of precedence in section 4 of
4 the Federal Employees' Group Life Insurance Act of 1954,
5 as amended (5 U.S.C. 2093), is amended to read as follows:
6 “First, to the beneficiary or beneficiaries as the employee
7 may have designated by a signed and witnessed writing
8 received prior to death in the employing office or, if insured
9 because of receipt of annuity or of benefits under the Federal
10 Employees' Compensation Act as provided in section 6 (b)

1 or 6 (c) of this Act, in the Commission. For this purpose,
2 a designation, change, or cancellation of beneficiary in a
3 will or other document not so executed and filed shall have
4 no force or effect;”.

5 SEC. 2. The first item of the order of precedence in sec-
6 tion 11 (c) of the Civil Service Retirement Act, as amended
7 (5 U.S.C. 2261 (c)), is amended to read as follows:

8 “First, to the beneficiary or beneficiaries as the em-
9 ployee or Member may have designated by a signed and
10 witnessed writing received in the Commission prior to his
11 death. For this purpose, a designation, change, or cancel-
12 lation of beneficiary in a will or other document not so exe-
13 cuted and filed shall have no force or effect;”.

A BILL

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

By Mr. DANIELS

JANUARY 4, 1965

Referred to the Committee on Post Office and Civil Service

May 20, 1965

13. POVERTY. The "Daily Digest" states that the Education and Labor Committee voted to report (but did not actually report) "H. R. 8283 (the clean bill introduced in lieu of H. R. 8174), to expand the war on poverty and enhance the effectiveness of programs under the Economic Opportunity Act of 1964." p. D428
14. DAIRY. The Subcommittee on Dairy and Poultry of the Agriculture Committee voted to report to the full committee with amendment H. R. 3609, the dairy "base surplus plan" bill. p. D428
15. EDUCATION. A subcommittee of the Education and Labor Committee voted to report to the full committee H. R. 3220, to strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education. p. D428
16. MEAT IMPORTS. Received a Nev. Assembly resolution urging the "Nevada congressional delegation to take action to protect the domestic livestock industry from the effect of the importation of meats." p. 10796
17. ATOMIC ENERGY. Passed with amendments, 350 to 1, H. R. 8122, the Atomic Energy Commission authorization bill. pp. 10742-65
18. ELECTRIFICATION. Rep. Patman commended the achievements of the Rural Electrification Administration on its 30th anniversary. pp. 10766-7
19. FOREIGN TRADE. Rep. Wolff spoke in opposition of legislation which might reduce the number of Americans traveling abroad or the amounts of money they spend, stated that he "adamantly opposed any move to further reduce the duty-free allowance from \$100 to \$50" and said that he has constantly called for "substitution of trade for aid."
20. FEDERAL WAGE-HOUR. Rep. Roosevelt inserted a subcommittee press release, "Federal Wage-Hour Amendments", announcing hearings to begin May 25 covering the "administration's proposals, raising the minimum wage, shorter workweek, and coverage of farm workers."
21. OPINION POLL. Rep. Smith, N.Y., inserted the replies to a questionnaire including items of interest to this Department. pp. 10777-8
22. FARM PROGRAM. Rep. Langen inserted a "Statement by the House Republican Task Force on Agriculture: The Administration's 'Mi-grate Society' for Rural America," critical of the Administration's policy toward the family farm. pp. 10778-9
23. FARM LABOR. Rep. Gonzalez inserted the testimony of the director of research of the California Labor Federation concerning the strawberry crops in Calif. which stated that "the great 'strawberry crisis'...is a deliberately deceptive publicity campaign." pp. 10787-8
24. PERSONNEL. The Post Office and Civil Service Committee voted to report (but did not actually report) H. R. 432, to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary. p. D429

Received from the Civil Service Commission a proposed bill to amend the Administrative Expenses Act of 1946, as amended, to provide for reimbursement of certain moving expenses of employees, and to authorize payment of expenses for storage of household goods and personal effects of employees assigned to isolated duty stations within the continental United States; to Government Operations Committee.

Received from the Interior Department a proposed bill to authorize the Secretary of the Interior to use appropriated funds for the payment of medical care of temporary and seasonal employees located in isolated areas who became disabled because of injury or illness not attributable to official work; to Interior and Insular Affairs Committee.

25. LEGISLATIVE PROGRAM. Rep. Boggs stated that the foreign aid authorization bill will be taken up on Mon., and the USDA appropriation bill on Wed. p. 10740
26. ADJOURNED until Mon., May 24. p. 10794

ITEMS IN APPENDIX

27. DISASTER RELIEF. Speech in the House by Rep. Roush during debate on the bill to provide assistance to the Northwestern States damaged by recent flood and highwaters. p. A2512
28. CCC; GRAIN. Extension of remarks of Rep. Nelsen criticizing CCC grain resale policies and inserting a GTA article on this subject. p. A2514
29. EDUCATION; EXTENSION WORK. Extension of remarks of Rep. Tunney favoring the proposed aid to education bill and stating that a large portion of the funds would be allocated to the Univ. of Calif. Extension Service. p. A2518
30. NOMINATIONS. Rep. St. Germain inserted an article, "The President Makes Some More Good Appointments", which refers to the nomination of Under Secretary Murphy to be Chairman of the CAB. pp. A2518-9
Extension of remarks of Rep. Rivers, S. C., favoring the nomination of Lawson B. Knott, Jr. to head the General Services Administration. p. A2531
31. FARM LABOR. Extension of remarks of Rep. Jacobs inserting an article and stating that it "contains an intelligent, responsible tribute to the courage and wisdom of Secretary Wirtz in the handling of the migrant farm labor controversy." p. A2521
32. MARKETING. Extension of remarks of Rep. Gilligan urging enactment of proposed "truth-in-packaging" legislation and outlining the key provisions of the legislation. pp. A2522-4
33. WATER RESOURCES. Speech in the House by Reps. Harris and Rogers, Tex., during debate on H. R. 5269, to provide uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects and stating that "It does not apply to agricultural projects and it does not apply to the small reclamation projects..." pp. A2527-8
34. ELECTRIFICATION. Rep. Burton, Utah, inserted an article which "cogently sets forth reasons why the request of the Bonneville Power Authority for \$1 million for planning of transmission lines to southeastern Idaho should be denied." pp. A2531-2

June 10, 1965

15. PEACE CORPS. The "Daily Digest" states that the Foreign Affairs Committee "ordered a clean bill introduced and reported favorably to the House regarding the extension of the Peace Corps Act." p. D512
16. DISASTER RELIEF. The "Daily Digest" states that the Rules Committee "Granted an open rule...on S.2089," the revised disaster relief bill. p. D513
17. ECONOMIC POLICY. Rep. Hanna expressed disappointment with the recent speech by Federal Reserve Chairman Martin and inserted an article, "Federal Reserve Restrictions Raise Some Issues." pp. 12799-80
18. NATURAL BEAUTY. Rep. Sweeney commended the President's efforts to beautify America stating that the job "lies as much with Americans as with Government." pp. 12800-1
19. PERSONNEL. Rep. Nelsen criticized the Civil Service Commission for the "listless approach" it has taken in resolving the cases of Rural Electrification Administration officials charged with "soliciting civil service workers for political campaign funds." pp. 12801-2
The Post Office and Civil Service Committee reported without amendment H. R. 432 to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary (H. Rept. 508). p. 12826
20. GRAINS. Rep. Findley criticized the provision in H. R. 8629 "which would substitute the use of wheat for industrial purposes at the expense of feed grain farmers." pp. 12803-4
21. FARM LABOR. Rep. Talcott inserted a commentary on administration efforts to recruit farm workers, "Agricultural Labor or a Social Experiment?" pp. 12804-5
22. HOUSING. Rep. Dwyer listed bills similar to her bill H. R. 8822, to establish a Department of Housing and Urban Development, and urged its enactment. p. 12806
23. EXPORT CONTROL. Rep. Grabowski spoke in support of the bill amending the Export Control Act. pp. 12822-3
24. LEGISLATIVE PROGRAM. Rep. Albert announced that on Tues. and the balance of the week the House would consider S. 2089, the revised disaster relief bill, and H. R. 6927, establishing a Dept. of Housing and Urban Development. p. 12775
25. ADJOURNED until Mon., June 14. p. 12826

BILLS INTRODUCED

26. PERSONNEL. H. R. 8955 by Rep. Krebs, H. R. 8961 by Rep. Addabbo, and H.R. 8995 by Rep. Gilbert, to amend section 8(b) (4) of the National Labor Relations Act, as amended, with respect to strike at the sites of construction projects; to Education and Labor Committee. Remarks of Rep. Gilbert p. 12820
H. R. 8960 by Rep. Sickles, to provide time off duty for Government employees to comply with religious obligations prescribed by religious denominations of which such employees are bona fide members; to Post Office and Civil Service Committee.

27. COTTON. H. R. 8963 thru H. R. 8988, H. R. 8991 by Rep. Talcott, H. R. 8992 by Rep. Wilson, H. R. 8996 by Rep. Quie, and H. R. 8997 by Rep. Rosenthal, to repeal the release and reallocation provisions for cotton allotments; to Agriculture Committee.
28. WEIGHTS & MEASURES. H. R. 8957 by Rep. Quie, to provide that the National Bureau of Standards shall conduct a program of investigation, research, and survey to determine the practicability of the adoption by the United States of the metric system of weights and measures; to Science and Astronautics Committee.
28. LOANS. H. R. 8959 by Rep. Schmidhauser, to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to authorize the Secretary of Agriculture to make or insure loans to public and quasi-public agencies and corporations not operated for profit with respect to water supply and water systems serving rural areas and to make grants to aid in rural community development planning and in connection with the construction of such community facilities, to increase the annual aggregate of insured loans thereunder; to Agriculture Committee.
29. LUNCH PROGRAM. S. 2121 by Sen. Ribicoff, to protect the health and well-being of the Nation's children by establishing a special summer lunch program; to Agriculture and Forestry Committee. Remarks of author pp. 12726-30

ITEMS IN APPENDIX

30. FOOD PRICES. Extension of remarks of Rep. May inserting a letter and stating that it comments on the food-price situation and makes a "very sound analysis of why food continues to be a real bargain for the American consumer." pp. A2010-1
31. FOOD. Rep. Grover inserted articles on the development of Long Island duck and strawberry industry. pp. A3020-1
32. OPINION POLL. Rep. Whitener inserted the results of a questionnaire, including items of interest to this Department. p. A3022
33. LIBRARIES. Extension of remarks of Rep. Widnall stating that the "importance of a superior library system to the Nation cannot be questioned", and inserting a speech on the responsibilities of libraries. pp. A3028-9

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COMMITTEE HEARINGS JUNE 11:

Surplus property donation program, S. Gov't Operations (Mangham to testify).

Amendments to Clean Air Act, H. Interstate.

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DESIGNATION OF BENEFICIARIES UNDER CIVIL SERVICE
RETIREMENT AND GROUP LIFE INSURANCE LAWS

JUNE 10, 1965.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. DANIELS, from the Committee on Post Office and Civil Service,
submitted the following

R E P O R T

[To accompany H.R. 432]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 432) to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 432 is to clarify, beyond any possibility of misinterpretation, the intent of Congress with respect to the taking effect of designations of beneficiary under the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2093), and the Civil Service Retirement Act (5 U.S.C. 2261(c)). The ultimate objective is to provide for assurance of a valid acquittance to the insurer or the Government upon payment to a claimant properly entitled under such acts.

STATEMENT

The first section of H.R. 432 relates to beneficiary designations under the Federal Employees' Group Life Insurance Act, and section 2 relates to similar designations under the Civil Service Retirement Act.

Section 4 of the Federal Employees' Group Life Insurance Act specifies that insurance under the act which is in force upon death of a covered Federal employee shall be paid "First, to the *beneficiary* or

beneficiaries as the employee may have designated by a writing received in the employing office prior to death;" [Emphasis supplied.]

Section 4 then enumerates five other classes of persons entitled to payment, in the absence of a designated beneficiary, in the following order of precedence:

- (2) Widow or widower.
- (3) Children or descendants by representation.
- (4) Parents or surviving parent.
- (5) Executor or administrator.
- (6) Other next of kin under law of decedent's domicile at time of death.

The Insurance Act also authorizes the U.S. Civil Service Commission to exercise broad regulatory authority, pursuant to which the Commission promulgated the following regulation to govern the filing and change of insurance designations:

(a) The designation of beneficiary shall be in writing, signed, and witnessed, and received in the employing office (or, in the case of (1) a retired employee and (2) an employee whose insurance is continued while he is receiving benefits under the Federal Employees' Compensation Act * * *, in the Commission) prior to the death of the designator.

(b) No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by the regulations in this part, shall have any force or effect.

Section 11 of the group life insurance policy purchased by the Commission from the Metropolitan Life Insurance Co. to carry out the Federal employees' life insurance program contains similar provisions.

Thus, in accordance with the law, the regulations, and the insurance contract, when any insured employee or annuitant dies without having designated a beneficiary or beneficiaries by a writing filed in the employing agency or the Civil Service Commission prior to death, the proceeds of his insurance are to be paid to the person or persons otherwise entitled in strict accordance with the order of precedence set forth above. This has also been the consistent rule with respect to payments of lump-sum death benefits under the Civil Service Retirement Act.

Notwithstanding the Civil Service Commission regulations, which have the force and effect of law, and the provisions of the insurance contract, the U.S. Court of Appeals for the Ninth Circuit, in *Austin v. Sears* (292 F. 2d 690), held that a beneficiary named in a will was entitled to payment of insurance as a designated beneficiary under the act even though the will had not been filed as required by the governing regulations and the insurance contract.

While contrary (and, in the opinion of the committee, correct) conclusions in cases involving the same principle were reached by the U.S. District Court for the Southern District of New York in *Menzel v. United States* and by the Supreme Court of the State of Pennsylvania in *Breckline v. Metropolitan*, court actions involving similar circumstances are being brought by claimants under the Federal Employees' Group Life Insurance Act. Should the *Sears* decision be followed by the courts in other cases, neither the Civil Service Commission nor the insurer under the act, the Metropolitan Life Insurance Co., could be certain that an insurance payment made in accordance with the act,

the Commission's regulations, and the insurance policy would be correct or would assure an acquittance against duplicate claims. The inherent possibility of conflicting provisions in a will, not filed with either the employing agency or the Commission, would be a constantly overhanging threat.

To avoid the financial risk of paying the life insurance twice, should the *Austin v. Sears* doctrine prevail, payments would have to be delayed inordinately in every case pending complete investigation and conclusive determination that no document, such as the will in the *Sears* case, existed anywhere which might affect the determination of the proper payee. This would work a severe hardship on the decedent's family at a time when its financial need is the greatest. Presently, life insurance benefits are paid promptly to the persons entitled after the death of the insurer. This highly desirable policy could not in all probability be maintained if the danger implicit in the *Sears* decision is not overcome by legislative action.

Accordingly, the first section of H.R. 432 will spell out and make certain in the law, in unmistakable terms precluding any possibility of misinterpretation, that a designation of beneficiary under the Federal Employees' Group Life Insurance Act, no matter what its form, shall and must be filed with the employing agency or the Commission, as the case may be, prior to death of the insured employee or annuitant. Differently stated, enactment of H.R. 432 writes into the law the substance of the present administrative regulations and constitutes notice to all parties that no purported designation of beneficiary under the act will be of any force or effect whatever unless it is so filed.

With respect to section 2 of H.R. 432, it is to be emphasized that there has been no judicial ruling on a civil service retirement claim such as was handed down in *Austin v. Sears*, although for many years the Civil Service Commission regulations have required filing of designations of beneficiary under the Civil Service Retirement Act exactly as the Commission's regulations have required such filing under the Federal Employees' Group Life Insurance Act. The principles of substantive and administrative law are identical, but no court has ever raised the issue here in question in connection with payment of benefits under the Retirement Act. However, in order that the successful and effective history of operation under the Retirement Act may be protected from possible damage or disruption because of judicial reasoning such as that in the *Sears* case, the committee, with the strong endorsement of the Civil Service Commission, has written appropriate preventive language into the Retirement Act so that the provisions of both the Retirement Act and the Life Insurance Act will conform precisely with respect to the filing of designations of beneficiary.

COST

Enactment of H.R. 432 will result in administrative savings in the claims adjudication procedure and eliminate expensive litigation in the settlement of both life insurance and retirement benefit claims.

ADMINISTRATIVE REPORTS

The official reports of the U.S. Civil Service Commission and the Bureau of the Budget, endorsing H.R. 432, follow:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 2, 1965.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives,
213 Cannon House Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to the committee's request for the views of the Bureau of the Budget concerning H.R. 432, a bill to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

The purpose of the bill is to so clarify the intent of the designation-of-beneficiary provisions contained in the cited acts as to prevent further misinterpretation in their application.

There would be no objection from the standpoint of the administration's program to enactment of the subject bill.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CIVIL SERVICE COMMISSION,
Washington, D.C., April 22, 1965.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: This refers further to your letter of January 11, 1965, requesting Commission report on H.R. 432, a bill to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

Section 1 of H.R. 432 is designed to clarify beyond any possibility of misinterpretation the intent of the legislative body that a designation of beneficiary under the Federal Employees' Group Life Insurance Act is required to be filed with the employing office prior to the death of the designator. This legislative proposal was submitted to the 88th Congress by the Commission, resulting in the introduction of H.R. 10038, H.R. 10171, and S. 1974. The House bills added provision for a similar Civil Service Retirement Act amendment now contained in section 2 of H.R. 432. We concur in extending this clarification to the Retirement Act. Public hearing was held on S. 1974 on February 10, 1964, following which the bill was reported by the Senate Committee on Post Office and Civil Service on August 18, 1964, and passed by the Senate on August 19, 1964. House action was not completed on the legislation, however, and it failed of enactment in the 88th Congress.

Section 4 of the Federal Employees' Group Life Insurance Act (5 U.S.C. 2093) specifies an order of precedence for payment of the insurance in force on any employee at death, the first order reading: "First to the *beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death;*" [Emphasis supplied.]

Section 4 then enumerates the other classes of contingent beneficiaries in the following order of precedence:

- (2) Widow or widower.
- (3) Children or descendants by representation.
- (4) Parents or surviving parent.
- (5) Executor or administrator.
- (6) Other next of kin under law of decedent's domicile at time of death.

Except for the cited language italicized above, the act is silent regarding beneficiary designations, and in exercise of its regulatory authority under section 11 of the law (5 U.S.C. 2100), the Commission adopted a regulation (5 C.F.R. 870.901) to govern the filing and change of insurance designations. This regulation, having the force and effect of law, reads in pertinent part as follows:

"(a) The designation of beneficiary shall be in writing, signed, and witnessed, and received in the employing office (or, in the case of (1) a retired employee and (2) an employee whose insurance is continued while he is receiving benefits under the Federal Employees' Compensation Act * * *, in the Commission) prior to the death of the designator.

"(b) No change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by the regulations in this part, shall have any force or effect."

Section 11 of the group life insurance policy purchased by the Commission from Metropolitan Life Insurance Co. to carry out this program contains similar provisions.

On June 20, 1961, the U.S. Court of Appeals for the Ninth Circuit in the case of *Austin v. Sears* (292 F. 2d 690) held that a beneficiary named in a will was entitled to payment as a designated beneficiary under the act. The court stated in pertinent part:

"Defendants have * * * contended that a designation of beneficiary by will is ineffective in the instant case. No *express* prohibition in this regard is found in the policy, in the certificate handed the insured, or in the statutes creating Federal Employees' Group Life Insurance * * *." [Emphasis supplied.]

In effect, the judgment held as of no consequence the statutory and regulatory requirement of filing a designation prior to death and ignored the order of precedence stipulated in the act.

A contrary and, in our opinion, correct conclusion was reached by the U.S. District Court, Southern District of New York, in the case of *Menzel v. United States*, involving interpretation of a similar provision in the Civil Service Retirement Act. On March 22, 1961, the court recorded the following conclusion of law:

"The will of Ernest Sunday executed December 23, 1938, was never filed with the U.S. Civil Service Commission and was not a legal or proper designation of his estate or of the executrix of his will, or of the residuary legatee named therein, as a beneficiary under the provisions of the U.S. Civil Service Retirement Act" after rationalizing as follows:

"The benefits under the Retirement Act are statutory; and in order to have a right to receive them, a claimant must show that all that the statute required to be done to entitle the claim to favorable consideration was in fact done. A disposition or intention on the part of a deceased employee spelled out from other documents or

circumstances is not sufficient. * * * But the fact remains that Ernest Sunday did not do the thing he should have done and did not file the designation he should have filed in order to deprive his wife of any interest in the said fund, after the amendment of the act dated June 14, 1950. The statute establishes the rights of the parties and specifies how those rights may be created, either by a compliance with the provisions of the act in filing a proper designation of a specific beneficiary or, on a failure to do so, by permitting the order of precedence set forth in the act at the time of the employee's death to become operative."

Similarly, the Supreme Court of Pennsylvania in *Breckline v. Metropolitan*, after considering *Austin v. Sears* but holding it not persuasive, held (March 13, 1962, 178 A. 2d 748) invalid under the Insurance Act a designation of beneficiary not filed in the employing office prior to the designator's death.

A small but steadily increasing number of court actions involving similar circumstances are being brought by claimants under the act. If the principle laid down in *Austin v. Sears* stands and is followed by the courts in other cases, the Commission or Metropolitan Life Insurance Co. could never be sure, with the overhanging threat of possible conflicting provisions in a will, that an insurance payment made in accordance with the law is correct. At the present time life insurance benefits are paid to the persons entitled promptly after the death of the insured. If the doctrine of *Austin v. Sears* prevails, it will be necessary to delay payment in every case to provide the opportunity, even investigating or soliciting information in the area, for every person who may possess a document which might affect the determination of payee to present the paper for consideration. This would work a severe financial hardship on the family of the decedent at a time when unusual expenses have been incurred in connection with the last illness and burial of the former employee.

The requirement of filing a beneficiary designation with the agency (or with the Commission after retirement) is a reasonable one, preventing to a limited extent deathbed designations often executed under stress or influence by a designator in extremis or not in full possession of his faculties.

The Commission desires to have a uniform practice in the cases arising in this area to avoid misunderstanding and litigation. The time-consuming administrative problems which arise from such a situation can be avoided by amendment explicitly stating congressional intent with regard to filing a designation of beneficiary.

Enactment of H.R. 432 will not result in any cost to the Government, but will produce an administrative saving in connection with adjudicating claims and should eliminate litigation in this area. The Commission recommends its early enactment into law.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 4 OF THE FEDERAL EMPLOYEES' GROUP LIFE INSURANCE ACT OF 1954]

SEC. 4. Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the employee may have designated by a **[writing received in the employing office prior to death]** *signed and witnessed writing received prior to death in the employing office or, if insured because of receipt of annuity or of benefits under the Federal Employees' Compensation Act as provided in section 6(b) or 6(c) of this Act, in the Commission. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;*

* * * * *

SECTION 11(c) OF THE CIVIL SERVICE RETIREMENT ACT

LUMP-SUM BENEFITS

SEC. 11. (a) * * *

* * * * *

(c) Lump-sum benefits authorized under subsections (d), (e), and (f) of this section shall be paid in the following order of precedence to such person or persons surviving the employee or Member and alive at the date title to the payment arises, and such payment shall be a bar to recovery by any other person:

First, to the beneficiary or beneficiaries **[designated by the employee or Member in a writing received in the Commission prior to his death]** *as the employee or Member may have designated by a signed and witnessed writing received in the Commission prior to his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;*

* * * * *



Union Calendar No. 221

89TH CONGRESS
1ST SESSION

H. R. 432

[Report No. 508]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1965

Mr. DANIELS introduced the following bill; which was referred to the Committee on Post Office and Civil Service

JUNE 10, 1965

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first item of the order of precedence in section 4 of
4 the Federal Employees' Group Life Insurance Act of 1954,
5 as amended (5 U.S.C. 2093), is amended to read as follows:
6 “First, to the beneficiary or beneficiaries as the employee
7 may have designated by a signed and witnessed writing
8 received prior to death in the employing office or, if insured
9 because of receipt of annuity or of benefits under the Federal
10 Employees' Compensation Act as provided in section 6 (b)

1 or 6 (c) of this Act, in the Commission. For this purpose,
2 a designation, change, or cancellation of beneficiary in a
3 will or other document not so executed and filed shall have
4 no force or effect;”.

5 SEC. 2. The first item of the order of precedence in sec-
6 tion 11 (c) of the Civil Service Retirement Act, as amended
7 (5 U.S.C. 2261 (c)), is amended to read as follows:

8 “First, to the beneficiary or beneficiaries as the em-
9 ployee or Member may have designated by a signed and
10 witnessed writing received in the Commission prior to his
11 death. For this purpose, a designation, change, or cancel-
12 lation of beneficiary in a will or other document not so exe-
13 cuted and filed shall have no force or effect;”.

89TH CONGRESS
1ST SESSION

H. R. 432

[Report No. 508]

A BILL

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

By Mr. DANIELS

JANUARY 4, 1965

Referred to the Committee on Post Office and Civil Service

JUNE 10, 1965

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For information only;
should not be quoted
or cited)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
Washington, D. C. 20250
Official Business Postage and Fees Paid
U. S. Department of Agriculture

Issued June 22, 1965
For actions of June 21, 1965
89th-1st; No. 111

CONTENTS

Appropriations..5,15,29,38	Foreign aid.....14	Recreation.....6,8,21,27
Budget.....20	Foreign trade.....19,31	Reorganization.....37
CCC.....2	Health benefits.....25	Retirement.....9,25
Conservation.....13	Housing.....30	Salaries.....25
Cotton.....23	Inspection.....31	Saline water.....44
Dairy.....46	Legislative program....15	School lunch.....33
Disaster relief.....7,10	Life insurance.....9	Small business.....10
Economic development....39	Loans.....10,11,32,43	Soybeans.....17
Education.....11,42	Military construction...2	Summer lunches.....4
Electrification.....21,26	Peach research.....3	Taxes.....12,36
Farm labor.....18,30	Personnel.....9,16,41	Trade fair.....22
Federal aid.....45	Public debt.....29	Water systems.....32
Feed grains.....7	Public works.....39	Wheat.....24
Flood control.....35	Reclamation.....1,28,40	Wool.....34

HIGHLIGHTS: House passed bill to provide diversion payments on acreage affected by disaster. House committee reported Whiskeytown-Shasta-Trinity recreation area bill. Sen. Russell asked more research on peach growing. Sen. Ribicoff recommended summer lunch program. Sen. Bible introduced and discussed bill to amend Wool Act.

SENATE

1. RECLAMATION. The Interior and Insular Affairs Committee reported with amendments S. 602, "to amend the Small Reclamation Projects Act of 1956" (S. Rept. 336). p. 13675
2. MILITARY CONSTRUCTION. The Armed Services Committee reported with amendment H. R. 8439, the military construction bill, which includes an item for repayment of CCC for military housing (S. Rept. 338). p. 13675
3. PEACH RESEARCH. Sen. Russell said many peach trees are dying in the Southeast and asked for more research on this subject. pp. 13689-90
4. SUMMER LUNCH PROGRAM. Sen. Ribicoff inserted an editorial favoring his bill, S. 2121, authorizing this project. p. 13694
5. D. C. APPROPRIATION BILL. Began debate on this bill, H. R. 6453. pp. 13694, 13705-13, 13719-48, 13750-92
6. RECREATION. Passed as reported S. 360, providing for establishment of the Indiana

Dunes National Lakeshore, pp. 13713-19

HOUSE

7. FEED GRAINS. Passed under suspension of the rules H. R. 8620, to take into consideration floods and other natural disasters in reference to the feed grains, cotton, and wheat programs for 1965 (pp. 13621-5).
8. RECREATION. The Interior and Insular Affairs Committee reported with amendment H. R. 797, to establish the Whiskeytown-Shasta-Trinity National Recreation area, Calif. (H. Rept. 535). p. 13670
9. PERSONNEL. Passed without amendment H. R. 432, to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act (to provide for assurance of a valid acquittance to the insurer or the Government upon payment to a claimant properly entitled under such acts.) p. 13597
10. SMALL BUSINESS. Passed under suspension of the rules S. 1796, to amend the Small Business Act to provide additional assistance for disaster victims (pp. 13626-9). This bill will now be sent to the President.
11. EDUCATION. Passed under suspension of the rules H. R. 7743, to establish a system of loan insurance and a supplementary system of direct loans, to assist students to attend postsecondary business, trade, technical, and other vocational schools. pp. 13609-21
12. TAXATION. Rep. Vanik commended the passage of the excise tax reduction bill and inserted an article, "Into the Public's Pocket." pp. 13645-51
13. CONSERVATION. Rep. Ottinger commended and inserted several articles concerning conservation of the natural beauty of the Hudson River. pp. 13954-5
14. FOREIGN AID. Rep. Facell inserted a speech by Assistant Secretary of State Vaughn on the role of the Alliance for Progress. pp. 13658-9
15. LEGISLATIVE PROGRAM. The "Daily Digest" states that on Tues. the House will consider the public works appropriation bill. p. D550

ITEMS IN APPENDIX

16. PERSONNEL. Extension of remarks of Rep. Udall inserting an address by Warren Irons, Civil Service Commission, in which he makes an argument for some flexibility in the merit system. pp. A3204-5
17. SOYBEANS. Rep. Gathings inserted an article, "Never Underrate a Soybean." p. A3214
18. FARM LABOR. Rep. Roybal inserted an article, "California Remains Leading Farm State--Without Braceros." pp. A3222-3
Extension of remarks of Rep. Talcott expressing concern over "serious crop losses" due to lack of adequate farmworkers. pp. A3231-2
Extension of remarks of Rep. Roybal inserting an article quoting the president of the world's biggest lettuce-shipping firm, as "categorically denying that an alleged scarcity of farm labor had contributed to the recent rise in the retail price of lettuce." pp. A3234-5

ceding the filing of the petition in bankruptcy, transferred, removed, destroyed, or concealed, or permitted to be removed, destroyed, or concealed, any of his property with intent to hinder, delay, or defraud his creditors; or (5) in a proceeding under this Act commenced within six years prior to the date of the filing of the petition in bankruptcy has been granted a discharge, or had a composition or an arrangement by way of composition or a wage earner's plan by way of composition confirmed under this Act; or (6) in the course of a proceeding under this Act refused to obey any lawful order of, or to answer any material question approved by, the court; or (7) has failed to explain satisfactorily any losses of assets or deficiency of assets to meet his liabilities; or (8) has failed to pay the filing fees required to be paid by this Act in full: *Provided*, That if, upon the hearing of an objection to a discharge, the objector shall show to the satisfaction of the court that there are reasonable grounds for believing that the bankrupt has committed any of the acts which, under this subdivision c, would prevent his discharge in bankruptcy, then the burden of proving that he has not committed any of such acts shall be upon the bankrupt."

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

DESIGNATION OF BENEFICIARIES UNDER CIVIL SERVICE RETIREMENT AND GROUP LIFE INSURANCE LAWS

The Clerk called the bill (H.R. 432) to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first item of the order of precedence in section 4 of the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2093), is amended to read as follows:

"First, to the beneficiary or beneficiaries as the employee may have designated by a signed and witnessed writing received prior to death in the employing office or, if insured because of receipt of annuity or of benefits under the Federal Employees' Compensation Act as provided in section 6(b) or 6(c) of this Act, in the Commission. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;"

SEC. 2. The first item of the order of precedence in section 11(c) of the Civil Service Retirement Act, as amended (5 U.S.C. 2261 (c)), is amended to read as follows:

"First, to the beneficiary or beneficiaries as the employee or Member may have designated by a signed and witnessed writing received in the Commission prior to his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;"

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO PERMIT FARMERS IN DISASTER AREAS TO COMPLY WITH ACRE-AGE REDUCTION AGREEMENTS

The Clerk called the bill (H.R. 8620) to amend the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938, to take into consideration floods and other natural disasters in reference to the feed grains, cotton, and wheat programs for 1965.

Mr. PELLY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

INTERNATIONAL COUNCIL OF SCIENTIFIC UNIONS AND CERTAIN ASSOCIATED UNIONS

The Clerk called the bill (H.R. 8862) to amend the act of August 7, 1935, to increase the authorized annual share of the United States as an adhering member of the International Council of Scientific Unions and Associated Unions.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. JOHNSON of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to interrogate the sponsor of this bill.

Mr. MORGAN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. MORGAN. The author of the bill is not present, but I would be glad to answer any questions the gentleman wishes to ask.

Mr. JOHNSON of Pennsylvania. I note by the bill that Russia and the Iron Curtain countries belong to this scientific organization, and the idea of this scientific group is to exchange scientific knowledge among themselves.

I would like to inquire: Does the gentleman know whether the Iron Curtain countries, particularly the Soviet Union, are contributing to this Nation and the other nations their scientific information in return for what we are giving them?

Mr. MORGAN. Yes, on matters such as space and oceanography, information is exchanged, but only so far as is consistent with national security.

Mr. JOHNSON of Pennsylvania. I understand the gentleman to say that the Soviet Union is cooperating. I am particularly interested in space, and whether they are giving us the advantage of the technology of space which we may acquire?

Mr. MORGAN. The hearings will show, I think, there has been much in the way of new scientific study, and that there have been some very high-level discussions on space.

Mr. JOHNSON of Pennsylvania. Then the gentleman would say if we increase the appropriation it will facilitate the free world giving free information to Russia and to the Iron Curtain countries,

and that we will get similar information from the Iron Curtain countries?

Mr. MORGAN. The International Council of Scientific Unions was established in 1931. We actually became a member in 1935. I think the record will show that there has been free discussion of scientific information and a highly useful degree of collaboration among the members.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield to the gentleman from Iowa.

Mr. GROSS. This expenditure has gone from \$28,000 to \$65,000?

Mr. MORGAN. Yes, that is correct. The \$65,000 limitation was established in 1958.

Mr. GROSS. Now you want to make it \$100,000. In the gentleman's opinion, is this not a pretty stiff increase in a matter of 10 years or less?

Mr. MORGAN. The gentleman is a member of the committee. He knows this is a long-range authorization. They would not expect to reach the \$100,000 figure until approximately 1968 or 1970.

Mr. GROSS. Does the gentleman see any end to increased spending on this organization?

Mr. MORGAN. This is a very valuable organization, in my opinion. This country has benefited much by its membership and attendance at its meetings. We have received scientific data that was very valuable in several fields, and especially now in the space age.

Mr. GROSS. Does not the gentleman think the brakes ought to be applied to certain of these international organizations and the increased donations that are being made to them?

Mr. MORGAN. Of course, the gentleman knows that space exploration is very expensive, and with the increased information we are receiving, the increase in dues, I think, is justified.

Mr. GROSS. I wish I could agree with the gentleman, but I cannot.

Mr. JOHNSON of Pennsylvania. Mr. Speaker. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 7, 1935 (22 U.S.C. 274), is amended by striking out "\$65,000" and inserting in lieu thereof "\$100,000".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the eligible bills on the Consent Calendar today.

PROVIDING PENALTIES FOR THE ASSASSINATION OF THE PRESIDENT

Mr. ROGERS of Colorado. Mr. Speaker, I move to suspend the rules

and pass the bill (H.R. 6097) to amend title 18, United States Code, to provide penalties for the assassination of the President or the Vice President, and for other purposes, with amendments.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by inserting immediately following section 1734 thereof, a new chapter, as follows:

"CHAPTER 84.—PRESIDENTIAL ASSASSINATION, KIDNAPING, AND ASSAULT

"§ 1751. Presidential assassination, kidnaping, and assault; penalties

"(a) Whoever kills any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the office of President of the United States, the Vice-President-elect, or any individual who is acting as President under the Constitution and laws of the United States, shall be punished as provided by sections 1111 and 1112 of this title.

"(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both.

"(f) The term 'President-elect' and 'Vice-President-elect' as used in this section shall mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

"(g) The Attorney General of the United States, in his discretion, is authorized to pay an amount not to exceed \$100,000 for information and services concerning a violation of this section. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this subsection.

"(h) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall preclude the exercise of jurisdiction by a State or local authority, under any applicable State or local law, to such extent as the Attorney General of the United States shall direct."

Sec. 2. Subsection (c) of section 3486 of title 18, United States Code, is amended by inserting after the words "in any case or proceeding before any grand jury or court of the United States" the following: "involving any violation of section 1751 of title 18 of the United States Code, or".

Sec. 3. The table of contents to "PART I.—CRIMES" of title 18, United States Code, is amended by inserting after

"83. Postal Service..... 1691"

a new chapter reference as follows:

"84. Presidential assassination, kidnaping, and assault..... 1751".

The SPEAKER. Is a second demanded?

Mr. MACGREGOR. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Colorado [Mr. ROGERS] is recognized.

Mr. ROGERS of Colorado. Mr. Speaker, the bill, H.R. 6097, would make certain acts endangering the life and safety of the President and Vice President of the United States, or their immediate successors, Federal crimes. It would authorize Federal investigative and prosecutive jurisdiction and thereby facilitate the apprehension of the assailants.

In the past century, 20 men have served this Nation as Chief Executive. Four have died by assassins' bullets. Another, and a President-elect, were assassins' targets. Ironically, however, these acts are not crimes under the Federal law. There was no Federal criminal jurisdiction with respect to assassination of President Kennedy on November 22, 1963. Curiously, the Congress has legislated in other ways to protect the safety of the Chief Executive and other Federal officers but has never made the murder of or an attack upon the President a Federal crime.

Under existing law, the murder of Federal judges, U.S. attorneys, as well as Internal Revenue Service agents, employees of the National Park Service, and many other designated lesser Federal officials is a Federal crime. Indeed, the Secret Service agents whose duty it is to protect the life and safety of the President are covered under the Federal law, but the Chief Executive, whom these officials protect, is not within the framework of Federal protection.

Further, under existing law, it is a Federal crime to mail a threat to harm the President—18 U.S.C. 871—but not to kill him. It is also a Federal crime if two or more persons conspire to injure the President on account of his performance of duty—18 U.S.C. 372—but not if one person acting alone commits the homicide. In addition, advocacy of the overthrow of the Government by assassination of any of its officers—18 U.S.C. 2385—is a Federal crime. Notwithstanding these various criminal provisions covering lesser officials in the Federal service, and covering acts other than the murder of the President, the Federal law today fails to assure full and complete Federal investigative and prosecutive jurisdiction over all acts designed to harm the Chief Executive of the United States.

H.R. 6097, as amended by the Committee on the Judiciary, makes punishable the assassination, kidnaping, or assaulting of the President, the Vice President, and in the absence of the Vice President, the officer next in line of succession. The bill also applies to any individual acting as President under the Constitution and laws of the United States, and during the period between election and inauguration, to the President-elect and the Vice-President-elect. In the opinion of the committee, restricting the coverage of this measure to these

designated officials, makes it unnecessary to require that the hostile act occur while the victim is engaged in, or because of, the performance of official duties. The injury and disruption suffered by the Nation resulting from an attack on any of these officers plainly does not bear any relationship to the activities of the victim at the time of the assault nor to the motive of the assailant. The grave national consequence of the assassination of any of the officials specified in the bill certainly affords the U.S. Government ample power to act for its own protection.

In addition, the bill would punish attempts and conspiracies to assault or kidnap the President, the Vice President, or their immediate successors. Subsection (g) of the bill authorizes the Attorney General to pay rewards not to exceed \$100,000 for information and services concerning any violation of the bill. A provision in this measure amends the general immunity statute by making provisions of that statute—section 3486, title 18, United States Code—applicable to grand jury or court proceedings involving any violation of the bill. Although reluctant to expand the immunity provisions, the committee is anxious to provide the Federal Government with every conceivable investigative weapon that might be of assistance in protecting the life of the President.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, the gentleman is making an important statement.

I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. ALBERT). Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 144]

Abernethy	Duncan, Tenn.	Kluczynski
Adams	Edwards, Calif.	Landrum
Andrews,	Ellsworth	Leggett
N. Dak.	Evans, Colo.	Lennon
Arends	Farnsley	Lindsay
Ashbrook	Fascell	Long, Md.
Baring	Fino	Love
Bates	Fogarty	McCarthy
Belcher	Ford,	McDowell
Bolling	Gerald R.	McEwen
Bonner	Fraser	McVicker
Bow	Frelinghuysen	Mackie
Brademas	Gialmo	Martin, Mass.
Bray	Goodell	May
Brock	Grabowski	Miller
Broomfield	Green, Pa.	Minshall
Brown, Calif.	Griffin	Mosher
Brown, Ohio	Gubser	Moss
Cahill	Gurney	Multer
Casey	Hall	Nedzi
Celler	Hardy	Nix
Chamberlain	Harris	Olsen, Mont.
Clark	Harvey, Ind.	Pepper
Cleveland	Hawkins	Philbin
Colmer	Hays	Pike
Conable	Hébert	Pirnie
Conyers	Hicks	Pucinski
Cooley	Holland	Quillen
Corbett	Horton	Randall
Cramer	Hungate	Reid, Ill.
Culver	Irwin	Reifel
Cunningham	Jennings	Resnick
Curtin	Joelson	Reuss
Devine	Johnson, Okla.	Rivers, Alaska
Dickinson	Karth	Rivers, S.C.
Diggs	Keith	Rogers, Tex.
Dulski	Kelly	Roncalio

89TH CONGRESS
1ST SESSION

H. R. 432

IN THE SENATE OF THE UNITED STATES

JUNE 22, 1965

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That the first item of the order of precedence in section 4 of
4 the Federal Employees' Group Life Insurance Act of 1954,
5 as amended (5 U.S.C. 2093), is amended to read as follows:

6 "First, to the beneficiary or beneficiaries as the employee
7 may have designated by a signed and witnessed writing
8 received prior to death in the employing office or, if insured
9 because of receipt of annuity or of benefits under the Federal
10 Employees' Compensation Act as provided in section 6 (b)

1 or 6 (c) of this Act, in the Commission. For this purpose,
2 a designation, change, or cancellation of beneficiary in a
3 will or other document not so executed and filed shall have
4 no force or effect;”.

5 SEC. 2. The first item of the order of precedence in sec-
6 tion 11 (c) of the Civil Service Retirement Act, as amended
7 (5 U.S.C. 2261 (c)), is amended to read as follows:

8 “First, to the beneficiary or beneficiaries as the em-
9 ployee or Member may have designated by a signed and
10 witnessed writing received in the Commission prior to his
11 death. For this purpose, a designation, change, or cancel-
12 lation of beneficiary in a will or other document not so exe-
13 cuted and filed shall have no force or effect;”.

Passed the House of Representatives June 21, 1965.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

JUNE 22, 1965

Read twice and referred to the Committee on Post
Office and Civil Service

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued March 10, 1966
For actions of March 9, 1966
89th-2nd; No. 42

CONTENTS

Accounting.....38	Farm labor.....19	Poverty.....5,23
Animal research.....20,28	Farm program.....32	Property.....34
Beans.....24	Fees.....29	Recreation.....17,39
Beef.....21	Fish protein.....40	Research.....18,20,28
Budget.....38	Flood control.....29	School milk.....6,25,27
CCC.....9,12	Food.....24,35	Soil and water conservation.....8
Child nutrition.....6	Foreign aid.....2	Stockpiling.....22
Civil service.....4	Forestry.....30	Sugar.....11
Commodity reserves.....9	FTC report.....16	Taxation.....1
Community development....7	Housing.....26	Visitor center.....37
Conservation.....8,39	Information.....33	Water resources.....31
Corn.....12	Lands.....30	Wildlife.....39
Crime.....4	Manpower.....14	
Economy.....13	Milk.....6,25,27	
Education.....10,15	Personnel.....3,36	

HIGHLIGHTS: Senate passed tax bill with provision re USDA statements on payments to farmers. Sens. Proxmire and Pell criticized school milk budget cut. Sen. Bass commended proposed community development districts proposal. Rep. May criticized "recent sugar quota actions." Rep. Nelson criticized administration's "corn dumping."

SENATE

1. TAXATION. Passed, 79 to 9, with amendments H. R. 12752, the proposed Tax Adjustment Act of 1966, which includes a provision for the graduated withholding of income tax from wages, and a requirement that this Department, in the case of payments made under programs it administers, supply farmers with copies of any statements which under present law it must send to the Internal Revenue Service (pp. 5219-43, 5247-63). Conferees were appointed (p. 5263). House conferees have not yet been appointed.

2. FOREIGN AID. The Foreign Relations Committee reported without amendment H. R. 12169, to authorize supplemental appropriations for the foreign aid program (S. Rept. 1060) (p. 5180). This bill was made the unfinished business (pp. 5263-4).
3. PERSONNEL. The Post Office and Civil Service Committee voted to report (but did not actually report) H. R. 432, to amend the Federal Employees Group Life Insurance Act and the Civil Service Retirement Act with regard to designation of beneficiaries; H. R. 969, to authorize redetermination under the Civil Service Retirement Act of annuities to certain reemployed annuitants; H. R. 1647, to authorize payment of back pay and restoration of employment benefits to certain employees who were improperly deprived thereof by unwarranted personnel actions; H. R. 1746, with amendment, to define "child" under the Civil Service Retirement Act to include adopted child but not stepchild for lump-sum benefits; and H. R. 6926, with amendment, to strengthen the financial condition of the Federal employees' insurance fund by authorizing Federal contributions thereto. p. D184
4. CRIME, CIVIL SERVICE. Both Houses received the President's message on crime in which he stated he was directing the Chairman of the Civil Service Commission to reexamine the policies of all Federal departments and agencies regarding the hiring of released "good risk" offenders (H. Doc. 407); to Judiciary Committees. pp. 5146-9, 5174-7
5. POVERTY PROGRAM. Received from the Office of Economic Opportunity a proposed bill "to provide for continued progress in the Nation's war on poverty"; to Labor and Public Welfare Committee. p. 5179
6. SCHOOL MILK; CHILD NUTRITION. Sens. Proxmire and Pell criticized the school milk budget cut and the proposed child nutrition program. pp. 5196-7, 5201
7. COMMUNITY DEVELOPMENT DISTRICTS. Sen. Bass commended the President's community development districts proposal to aid in the economic development of rural areas and inserted editorials commending the proposal. pp. 5201-2
8. SOIL AND WATER CONSERVATION. Sen. Long, Mo., commended the action of the Mo. State Soil and Water Districts Commission in authorizing three new soil and water conservation districts in the State. pp. 5197-8
9. COMMODITY RESERVES. Sens. Hartke, McCarthy, Moss, and Nelson were added as co-sponsors of S. 2995, to authorize the President to establish and maintain reserve stocks of agricultural commodities for national security. p. 5188
10. EDUCATION. Sens. Dominick and Tower protested the budget cut in Federal aid to schools in federally impacted areas. pp. 5188-9, 5205-6

HOUSE

11. SUGAR. Rep. May inserted a letter from her and 25 other Representatives to Secretary Freeman in "strong protest against recent sugar quota actions" taken by the Department in its administration of the Sugar Act. pp. 5150-56
12. CORN. Rep. Nelsen criticized the CCC corn "dumping" and inserted a letter from a Minn. farmers' co-op elevator and mill stating that it "is discriminating

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
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OFFICE OF BUDGET AND FINANCE
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Issued March 11, 1966
For actions of March 10, 1966
89th-2nd; No. 43

CONTENTS

Adjournment.....8,13	Job Corps.....18	Rural areas.....16
Alaska Centennial.....7	Legislative program.....12	School milk.....4,25
Animal research.....32	Life insurance.....2	Severance pay.....26
Buildings.....30	Manpower.....3	Soil conservation.....15
Child nutrition.....4	Milk.....4,25	Stockpiling.....21
Daylight time.....9,12	Personnel.....2,26	Taxation.....10,27
Economic report.....11	Postal service.....22	Transportation.....5,17
Education.....20,29	Poverty.....33	Urban development.....16
Electrification.....23,27	Recreation.....14	Veterans' benefits.....19
Foreign aid.....1	Research.....28,32	Water resources.....24
Foreign trade.....6	Retirement.....2	Wildlife.....31

HIGHLIGHTS: Sen. Proxmire criticized proposed child nutrition program. Rep. Fino inserted article critical of community development proposals.

SENATE

1. FOREIGN AID. By a vote of 82 to 2, passed with an amendment H. R. 12169, to authorize supplemental appropriations for the foreign aid program in Vietnam, Laos, Thailand, and the Dominican Republic. pp. 5311-22, 5325-33
2. PERSONNEL. The Post Office and Civil Service Committee reported ~~H. R. 1647, with amendment, to provide for the payment of certain amounts and restoration of employment benefits to certain Federal employees improperly deprived thereof (S. Rept. 1062), and H. R. 432, without amendment, to amend the Federal~~

Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act so as to provide for assurance of a valid acquittance to the insurer or the Government upon payment to a claimant properly entitled under such acts (S. Rept. 1064). p. 5266

3. MANPOWER. Received from the President his annual manpower report and the report of the Secretary of Labor on manpower requirements, resources, use and training; to Labor and Public Welfare Committee. pp. 5333-4
4. SCHOOL MILK; CHILD NUTRITION. Sen. Proxmire criticized the proposed child nutrition program and objected "to withdrawing all Federal support for school milk purchases unless the child can prove he or she is needy enough to get free milk." pp. 5269-70
Sen. Ribicoff was added as a cosponsor of S. 2921, to provide a special milk program for children. p. 5269
5. TRANSPORTATION. Sen. McClellan announced that hearings will begin Mar. 29 on the proposal to establish a Department of Transportation. p. 5269
6. FOREIGN TRADE. Sen. Brewster reviewed the meeting he recently attended as a congressional advisor to the American delegation to the meeting at the GATT Trade Center in Geneva to consider ways and means of promoting increased trade with underdeveloped nations. pp. 5288-9
7. ALASKA CENTENNIAL. Agreed to a unanimous-consent agreement by Sen. Mansfield that when S. 2614, to provide for U. S. participation in the statewide exposition to be held in Alaska during 1967, is considered next Mon. debate on any motions to the bill be limited to 30 minutes. p. 5334
8. ADJOURNED until Mon., Mar. 14. pp. 5337-8

HOUSE

9. DAYLIGHT TIME. The Interstate and Foreign Commerce Committee reported with amendments H. R. 6785, to establish uniform dates throughout the U. S. for the commencing and ending of daylight saving time in those States and local jurisdictions where it is observed (H. Rept. 1315). p. 5343
10. TAXATION. Conferees were appointed on H. R. 12752, the proposed Tax Adjustment Act of 1966 (p. 5340). The "Daily Digest" states that the conferees agreed to file a conference report on this bill on Mon., Mar. 14. (p. D193).
11. ECONOMIC REPORT. The "Daily Digest" states that the Joint Economic Committee "approved its report on the President's Economic Report." p. D193
12. LEGISLATIVE PROGRAM. Rep. Albert announced that on Tues., Mar. 15, the House will consider H. R. 6785, establishing uniform dates for daylight saving time. p. 5342
13. ADJOURNED until Mon., Mar. 14. p. 5342

ITEMS IN APPENDIX

14. RECREATION. Rep. Don Clausen inserted an editorial favoring the establishment

DESIGNATIONS OF BENEFICIARIES

MARCH 10, 1966.—Ordered to be printed

Mr. MONRONEY, from the Committee on Post Office and Civil Service,
submitted the following

R E P O R T

[To accompany H.R. 432]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 432) to amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

H.R. 432 would amend the provisions of law in the Federal Employees' Group Life Insurance Act and the Civil Service Retirement Act which control the payment of insurance and retirement benefits to survivors of Federal employees. A bill of similar intent was passed by the Senate during the 2d session of the 88th Congress.

JUSTIFICATION

Federal employees covered by the life insurance program established under the Federal Employees' Group Life Insurance Act of 1954 are requested, but not required, to designate a beneficiary of the insurance provided in the event of the employee's death. If no beneficiary is designated in writing by the employee and properly filed in the employer's office prior to the employee's death, the insurance payable at death is paid according to an order of precedence set out in section 4 of the Life Insurance Act (5 U.S.C. 2093).

Section 4 states:

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or

persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death;

Second, if there be no such beneficiary, to the widow or widower of such employee;

Third, if none of the above, to the child or children of such employee and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such employee or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such employee;

Sixth, if none of the above, to other next of kin of such employee entitled under the laws of domicile of such employee at the time of his death.

By regulation, the Civil Service Commission has interpreted the statutory order of precedence to exclude any designation or change of beneficiary in any will or other writing not properly filed in the employing office or the Civil Service Commission. The purpose of the regulation has been to insure that the contract of insurance would prevail in all cases regardless of the claims of any parties other than the designated beneficiary or the person entitled to payment under the provisions of section 4.

In 1961, a California case, *Austin v. Sears* (292 Federal 2d 960) held that where no beneficiary had been named in the insurance contract, the designation of a beneficiary in a valid will would prevail over the beneficiary enumerated in section 4 of the act in order to comply with the wishes of the insured employee. In that case, the funds payable had been deposited by the Metropolitan Life Insurance Co. into the court, and the issue was between the competing beneficiaries of the act and the will.

Other cases have held to the contrary. *Breckline v. Metropolitan* (178 Atlantic 2d 748). The equities in *Sears* may have prompted the court of appeals to disregard the civil service regulation and the general intent of the statute in order to comply with the insured's wishes, but the precedent established in that case could, if generally followed, result in administrative difficulties for the Civil Service Commission and the insurance companies and, more important, seriously delay paying insurance benefits to survivors of Federal employees.

To clarify Congress intent, H.R. 432 rewrites section 4 to state clearly that the order of precedence set out in that section shall prevail over any extraneous document designating a beneficiary unless the designation has been properly received in the employing office or by the Civil Service Commission.

To avoid the possibility of similar problems in regard to the payment of lump-sum benefits to survivors of Federal employees under the Civil Service Retirement Act, section 11 of that act has also been revised.

Public hearings were held on a similar bill, S. 1974, on February 10, 1964, before the Senate Subcommittee on Health Benefits and Life

Insurance. The Chairman of the U.S. Civil Service Commission, John W. Macy, Jr., testified in favor of enactment. No opposition was expressed and none has since been received by the committee.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be changed enclosed in black brackets; new matter in italic; existing law in which no change is proposed to be made in roman):

SECTION 4 OF THE FEDERAL EMPLOYEES' GROUP LIFE INSURANCE ACT OF 1954

(5 U.S.C. 2093)

SEC. 4. Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the employee may have designated by a [writing received in the employing office prior to death] *signed and witnessed writing received prior to death in the employing office or, if insured because of receipt of annuity or of benefits under the Federal Employees' Compensation Act as provided in section 6(b) or 6(c) of this Act, in the Commission.* For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

* * * * *

SECTION 11(c) OF THE CIVIL SERVICE RETIREMENT ACT

(5 U.S.C. 2261)

LUMP-SUM BENEFITS

SEC. 11. (a) * * *

* * * * *

(c) Lump-sum benefits authorized under subsections (d), (e), and (f) of this section shall be paid in the following order of precedence to such person or persons surviving the employee or Member and alive at the date title to the payment arises, and such payment shall be a bar to recovery by any other person:

First, to the beneficiary or beneficiaries [designated by the employee or Member in a writing received in the Commission prior to his death] *as the employee or Member may have designated by a signed and witnessed writing received in the Commission prior to his death.* For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

* * * * *



Calendar No. 1033

89TH CONGRESS
2D SESSION

H. R. 432

[Report No. 1064]

IN THE SENATE OF THE UNITED STATES

JUNE 22, 1965

Read twice and referred to the Committee on Post Office and Civil Service

MARCH 10, 1966

Reported by Mr. MONRONEY, without amendment

AN ACT

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first item of the order of precedence in section 4 of
4 the Federal Employees' Group Life Insurance Act of 1954,
5 as amended (5 U.S.C. 2093), is amended to read as follows:
6 "First, to the beneficiary or beneficiaries as the employee
7 may have designated by a signed and witnessed writing
8 received prior to death in the employing office or, if insured
9 because of receipt of annuity or of benefits under the Federal
10 Employees' Compensation Act as provided in section 6 (b)

1 or 6 (c) of this Act, in the Commission. For this purpose,
2 a designation, change, or cancellation of beneficiary in a
3 will or other document not so executed and filed shall have
4 no force or effect;”.

5 SEC. 2. The first item of the order of precedence in sec-
6 tion 11 (c) of the Civil Service Retirement Act, as amended
7 (5 U.S.C. 2261 (c)), is amended to read as follows:

8 “First, to the beneficiary or beneficiaries as the em-
9 ployee or Member may have designated by a signed and
10 witnessed writing received in the Commission prior to his
11 death. For this purpose, a designation, change, or cancel-
12 lation of beneficiary in a will or other document not so exe-
13 cuted and filed shall have no force or effect;”.

Passed the House of Representatives June 21, 1965.

Attest:

RALPH R. ROBERTS,

Clerk.

Calendar No. 1033

89TH CONGRESS
2^D SESSION

H. R. 432

[Report No. 1064]

AN ACT

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

JUNE 22, 1965

Read twice and referred to the Committee on Post Office and Civil Service

MARCH 10, 1966

Reported without amendment

DIGEST of Congressional Proceedings

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CONTENTS

Alaska exposition.....1	Foreign trade.....4,36	Pesticides.....72
Animal research...33,39,58	Forests.....63	Poverty.....10,38
Appropriations.....32	Hawaii.....29	Public works.....54
Buildings.....47	Health.....20	Reclamation.....13,21
CCC.....69	Inflation.....18,42	Recreation.....23,46
Claims.....5	Information.....44,49	Reorganization.....11
Commissions.....48,57	Labor standards.....62	Research.....33,39,56,72
Conservation.....41	Lands.....52	Retirement.....2
Economics.....17	Laws.....48	School lunch.....6,31,40
Education.....15,28	Life insurance.....2	Small business.....70
Eggs.....61	Livestock.....45	Statistics.....73
Electrification...12,25,50	Meat inspection.....7	Soybeans.....59
Farm credit.....71	Milk.....6,31,40,51	Taxation.....24,68
Farm program.....32	Monopolies.....66	Transportation.....37,55
Farmers Union.....14,43	Nomination.....19,65	Urban affairs.....27
Fish protein.....16	OEP.....19	User fees.....7
Flood control.....53	Opinion poll.....30	Water pollution.....11,56
Food.....8,35,60	Organization.....48,57	Water resources.....34,72
Foreign aid.....22,67	Peace Corps.....3	Weather.....26
Foreign currencies.....9	Personnel.....2,20,64	Wheat.....69

HIGHLIGHTS: Sens. Proxmire and Fannin criticized school milk budget cut. Sen. Dirksen inserted items critical of meat inspection user charges proposal.

SENATE

1. ALASKA EXPOSITION. Concurred in the House amendment to S. 2614, to provide for U. S. participation in the statewide exposition to be held in Alaska during 1967. This bill will now be sent to the President. pp. 5438-45
2. PERSONNEL. Passed without amendment H. R. 432, to amend the Federal Employees' Group Life Insurance Act and the Civil Service Retirement Act so as to provide for assurance of a valid acquittance to the insurer or the Government upon payment to a claimant properly entitled under such acts. This bill will now be sent to the President. pp. 5349-50

Passed as reported H. R. 1647, to provide for the payment of certain amounts and the restoration of employment benefits to Federal employees improperly deprived thereof by an unjustified or erroneous personnel action. p. 5349

The Post Office and Civil Service Committee reported H. R. 969, without amendment, to authorize redetermination under the Civil Service Retirement Act of annuities of certain reemployed annuitants (S. Rept. 1069), and H. R. 1746, with amendment, to redefine the term "child" for lump-sum payment purposes under the Civil Service Retirement Act (S. Rept. 1070). p. 5353

3. PEACE CORPS. Received from the President the annual report on the Peace Corps; to Foreign Relations Committee. p. 5347
4. FOREIGN TRADE. Received from the President a message stating that the U. S. and Canada "have concluded a trade agreement resulting from the entry into force in 1963 of the revised Tariff Schedules of the United States--TSUS"; to Finance Committee. p. 5347
5. CLAIMS. Both Houses received from the Justice Department proposed legislation: To amend the Federal Tort Claims Act to authorize increased agency consideration of tort claims against the Government; to establish a statute of limitations for certain actions brought by the Government; and to avoid unnecessary litigation by providing for the collection of claims of the U. S.; to Judiciary Committee. pp. 5353, 5531
6. SCHOOL MILK. Sens. Proxmire and Fannin criticized the budget cut for the school milk program, and Sen. Proxmire stated that "the administration's Child Nutrition Act will lower rather than raise the nutritional standards of our Nation's schoolchildren." pp. 5371, 5393
Sens. Fannin and Hartke were added as cosponsors of S. 2921, to provide a special milk program for children. p. 5368
7. MEAT INSPECTION; USER CHARGES. Sen. Dirksen inserted two items critical of the proposal for user charges for meat inspection. p. 5369
8. FOOD FOR FREEDOM. Sen. McGovern inserted the testimony of Secretary of State Rusk and AID Administrator Bell, and Sen. Mondale inserted a speech by Surgeon General Stewart, supporting the proposed Food for Freedom program. pp. 5407-10, 5417-8
9. FOREIGN CURRENCIES. Sen. Hayden inserted the reports of several Congressional committees and delegations on the expenditure of foreign currencies in connection with foreign travel. pp. 5353-60
10. POVERTY. Sen. Williams, Del., criticized expenditures under the poverty program and inserted two items on expenditures in New York City. pp. 5378-9
11. WATER POLLUTION. Sen. Clark commended the President's Reorganization Plan to transfer the Federal Water Pollution Control Administration from HEW to Interior. pp. 5381-2
12. ELECTRIFICATION. Sen. Cannon commended the project in Utah for "the generation of mine-mouth electricity," which he stated would use coal deposits and the water from Lake Powell to produce electricity. pp. 5411-3

action purporting to extend to March 15, 1956, the time within which leave available for the 1955 leave year could be used is hereby validated.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1061), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2573 is to give congressional validation to the action of the Acting Superintendent of Yosemite National Park in extending the 1955 leave year for certain Federal employees.

STATEMENT

During a severe flood emergency in December 1955, the Acting Superintendent of Yosemite National Park found it necessary to recall to duty a number of employees who were on annual leave, and to cancel additional leave requests. As a result of these actions, it became impossible for several employees to use their annual leave before the end of the year. Such leave time, unused at year's end is forfeited.

In an effort to provide these employees their earned annual leave, the Acting Superintendent issued an order which purported to extend to March 15, 1956, the period within which these employees could carry over and make use of this annual leave without forfeiture.

On July 7, 1958, the Comptroller General of the United States issued a decision declaring the above-described action of the Acting Superintendent invalid. The Comptroller General's determination recognized the practicalities of the situation which precipitated the Acting Superintendent's orders, but stated that such action was invalid.

The proposed legislation affects 23 persons. Eleven of these have been separated from the Federal service. Eight of them received overpayment of terminal leave. Seven others have been transferred from their posts at Yosemite National Park. Five of the persons involved are still employed at Yosemite.

The committee concurs in the view expressed by the Department of Interior through the statement of its Assistant Secretary, D. Otis Beasley:

"We believe that the Acting Superintendent would have been remiss in his duties if he had not taken prompt action to utilize all available manpower to save lives and property as a result of the disaster. The employees who responded to the call of this governmental official, who acted in good faith and in the best interest of the United States, should not be penalized."

BACKPAY ACT OF 1966

The Senate proceeded to consider the bill (H.R. 1647) to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes which had been reported from the Committee on Post Office and Civil Service with an amendment on page 1, line 3, after the word "of", to strike out "1965" and insert "1966".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1062), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill would consolidate and liberalize existing law on the restoration of an employee to his position after an adverse action against him has been found by appellate authority to have been erroneous or unjustified.

Present law excludes backpay for non-veterans in demotion cases in the competitive service; nonveterans in separation, suspension, and demotion cases in the excepted service; and all employees serving probationary periods. Present law also does not credit accumulated leave or provide for normal increments in pay, such as periodic step increases or enactment of Federal salary legislation.

H.R. 1647 would give to all employees, veteran and nonveteran, probationary and career, the benefits of the present law at its best, and liberalize the law by allowing credit for pay increases and accumulation of annual leave which otherwise would have accrued. It puts the employee in the same position he would have been in had the unjustified or erroneous personnel action not taken place.

LEGISLATIVE BACKGROUND

Congress first endorsed the basic principle of backpay in 1948.

This principle holds that an employee is entitled to be made whole whenever an erroneous personnel action which has terminated or reduced his compensation is corrected by appropriate authority.

NONPAY STATUS FOR CONGRESSIONAL EMPLOYEES

The Senate proceeded to consider the bill (H.R. 10553) to preserve the benefits of the Civil Service Retirement Act, the Federal Employees Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959, for congressional employees receiving certain congressional staff fellowships which had been reported from the Committee on Post Office and Civil Service with an amendment on page 1, line 8, after "January 1," to strike out "1965" and insert "1963".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1063), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

This bill would create a nonpay status for employees of the Senate and House of Representatives so that they could continue to participate in and receive the benefits of fringe-benefit programs on a basis equal to that enjoyed by employees of the executive branch who are in a nonpay status.

In 1963, the American Political Science Association established a special fellowship program consisting of 12 grants to be awarded

to employees of the Congress to further their education and improve their ability to serve the legislative branch.

In the executive branch, employees who attend school to improve their efficiency and effectiveness for Federal service are permitted to continue their coverage, without personal contribution, under the Federal Employees' Group Life Insurance Act, the Federal Employees Health Benefits Act, and the Civil Service Retirement Act.

Unfortunately, even though the Member of Congress employing the recipient of such an award agrees to reemploy him at the end of the fellowship period, present law does not permit an employee whose salary is disbursed by the Secretary of the Senate, or the Clerk of the House of Representatives to enjoy a nonpay status. An employee is either on or off the payroll. When he is separated to pursue studies under the fellowship program in a university or college, his employment status with the Congress ceases and his fringe benefit coverage also ceases.

H.R. 10553 would remedy this inequity by extending to fellowship recipients a nonpay status solely for the purposes of continuing coverage under the life insurance, health insurance, and civil service retirement programs without personal contribution during the period of nonpay status.

To be considered in a nonpay status the bill requires that the appointing authority (Member of Congress, committee chairman, elected or appointed official) certify that such employee will be, or has been, separated for the purpose of entering into a congressional staff fellowship during the life of such award. Thus, the certification will permit the employee (1) to retain his coverage under the health benefits program, (2) to be insured under the group life insurance program at the rate of salary he was receiving upon entering into the fellowship (or at the rate of salary otherwise payable by reason of any subsequent statutory salary increases), and (3) to continue to receive credit for time and average salary purposes under the retirement program. Provision is made for authorizing nonpay status in the case of an employee who commences a fellowship after the death or disability of his employing Member, and prior to the election of a successor.

The bill contemplates that absolute separation will occur upon expiration of the term of the fellowship in the event of the employee fails, or is unable, to resume congressional employment. Inasmuch as the status of nonpay is preserved to a separated employee, the clerk-hire allowance or committee complement would not be charged with such an employee against its statutory limitation of employees.

AMENDMENT

The committee has amended the bill by providing retroactivity to January 1, 1963. As referred, employees of the Congress who received such awards on and after January 1, 1965, would receive the benefits of the bill. The committee believes it is fair to make the benefits retroactive to the beginning of the American Political Science Association congressional staff fellowship program, January 1963. The only additional cost involved will be the contribution to the civil service retirement and disability fund for the 24 employees who received fellowships in 1963 and 1964.

DESIGNATIONS OF BENEFICIARIES ON FEDERAL EMPLOYEES GROUP LIFE INSURANCE

The bill (H.R. 432) to amend the Federal Employees Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designa-

tion of beneficiary and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1064), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 432 would amend the provisions of law in the Federal Employees' Group Life Insurance Act and the Civil Service Retirement Act which control the payment of insurance and retirement benefits to survivors of Federal employees. A bill of similar intent was passed by the Senate during the 2d session of the 88th Congress.

JUSTIFICATION

Federal employees covered by the life insurance program established under the Federal Employees' Group Life Insurance Act of 1954 are requested, but not required, to designate a beneficiary of the insurance provided in the event of the employee's death. If no beneficiary is designated in writing by the employee and properly filed in the employer's office prior to the employee's death, the insurance payable at death is paid according to an order of precedence set out in section 4 of the Life Insurance Act (5 U.S.C. 2093).

Section 4 states:

"Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"First, to the beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death;

"Second, if there be no such beneficiary, to the widow or widower of such employee;

"Third, if none of the above, to the child or children of such employee and descendants of deceased children by representation;

"Fourth, if none of the above, to the parents of such employee or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such employee;

"Sixth, if none of the above, to other next of kin of such employee entitled under the laws of domicile of such employee at the time of his death."

By regulation, the Civil Service Commission has interpreted the statutory order of precedence to exclude any designation or change of beneficiary in any will or other writing not properly filed in the employing office or the Civil Service Commission. The purpose of the regulation has been to insure that the contract of insurance would prevail in all cases regardless of the claims of any parties other than the designated beneficiary or the person entitled to payment under the provisions of section 4.

In 1961, a California case, *Austin v. Sears* (292 Federal 2d 960) held that where no beneficiary had been named in the insurance contract, the designation of a beneficiary in a valid will would prevail over the beneficiary enumerated in section 4 of the act in order to comply with the wishes of the insured employee. In that case, the funds payable had been deposited by the Metropolitan Life Insurance Co. into the court, and the issue was between the competing beneficiaries of the act and the will.

Other cases have held to the contrary. *Breckline v. Metropolitan* (178 Atlantic 2d 748). The equities in *Sears* may have prompted the court of appeals to disregard

the civil service regulation and the general intent of the statute in order to comply with the insured's wishes, but the precedent established in that case could, if generally followed, result in administrative difficulties for the Civil Service Commission and the insurance companies and, more important, seriously delay paying insurance benefits to survivors of Federal employees.

To clarify Congress intent, H.R. 432 rewrites section 4 to state clearly that the order of procedure set out in that section shall prevail over any extraneous document designating a beneficiary unless the designation has been properly received in the employing office or by the Civil Service Commission.

To avoid the possibility of similar problems in regard to the payment of lump-sum benefits to survivors of Federal employees under the Civil Service Retirement Act, section 11 of that act has also been revised.

Public hearings were held on a similar bill, S. 1974, on February 10, 1964, before the Senate Subcommittee on Health Benefits and Life Insurance. The Chairman of the U.S. Civil Service Commission, John W. Macy, Jr., testified in favor of enactment. No opposition was expressed and none has since been received by the committee.

DISCONTINUANCE OF POSTAL SAVINGS SYSTEM

The bill (H.R. 8030) to provide for the discontinuance of the Postal Savings System and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1065), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 8030 is an administration recommendation to provide for the termination of the Postal Savings System.

JUSTIFICATION

The Postal Savings System was established by Congress in 1910 to provide a convenient and safe depository for public investment. Instituted in the progressive era, it met the needs of the times when banks were neither numerous nor always reliable.

From its establishment until the end of the Second World War, the System steadily increased its balance of funds owned by depositors in thousands of post offices all over the United States. From an infant size of 11,918 depositors and \$677,145 in deposits in 1911, the System grew to include 4,196,517 depositors with a balance of \$3,392,773,461 in its peak year of 1947. A significant portion of this growth occurred during the Second World War when consumer goods were in short supply and employment and wage levels were high.

By law, the System pays interest at a rate of 2 percent per annum, compounded annually. For many years this rate of interest was competitive with private banking institutions and savings and loan associations. But in recent years, interest paid in private enterprise to investors has markedly increased. At the present time interest in excess of 4 percent compounded quarterly is commonly found in the banking industry, and interest in excess of 5 percent compounded monthly (or even daily) is found in certain investment companies and savings and loan associations.

The Postal Savings System was not designed to compete with private enterprise, and it has not done so. It has served as a convenient and guaranteed-safe depository

for citizens' savings. Since the 1930's, however, and the enactment of the Federal Deposit Insurance Act and related legislation, the characteristic of safety is not confined to postal savings. In fact, the maximum deposit of \$2,500 on any one account is only 25 percent of the insured amount in FDIC bank accounts or federally insured savings and loan accounts.

Since 1947, the number of depositors and the balance of deposits has annually declined. At the end of fiscal year 1964, there were 1,076,225 depositors owning a balance of \$415,965,295. One year later, the number of depositors had declined to 997,029, owning a balance of \$344,233,788, a dollar decline of 17.2 percent.

ALASKAN CENTENNIAL MEDALS

The bill (S. 2719) to provide for the striking of medals in commemoration of the 100th anniversary of the purchase of Alaska by the United States from Russia was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the one hundredth anniversary of the purchase of Alaska by the United States from Russia (which anniversary will be celebrated in 1967), the Secretary of the Treasury is authorized and directed to strike and furnish to the Alaska Centennial Commission not more than two hundred thousand medals with suitable emblems, devices, and inscriptions to be determined by the Alaska Centennial Commission subject to the approval of the Secretary of the Treasury. The medals shall be made and delivered at such times as may be required by the Commission in quantities of not less than two thousand, but no medals shall be made after December 31, 1967. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes.

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and furnished at not less than the estimated cost of manufacture; including labor, materials, dies, use of machinery, and overhead expenses; and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be of such size or sizes and of such metals as shall be determined by the Secretary of the Treasury in consultation with such Commission.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1066), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

GENERAL STATEMENT

S. 2719 was introduced by Senators BARTLETT and GRUENING on October 22, 1965. The bill would provide for the striking of not more than 200,000 medals in commemoration of the 100th anniversary of the purchase of Alaska by the United States from Russia.

The bill would authorize and direct the Secretary of the Treasury to strike and furnish the medals to the Alaska Centennial Commission. The medals will bear suitable emblems, devices, and inscriptions to be determined by the Commission subject to the approval of the Secretary of the Treasury. The bill provides that no medal shall be made after December 31, 1967. They will



Public Law 89-373
89th Congress, H. R. 432
March 23, 1966

An Act

80 STAT. 78

To amend the Federal Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designation of beneficiary, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first item of the order of precedence in section 4 of the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2093), is amended to read as follows:

"First, to the beneficiary or beneficiaries as the employee may have designated by a signed and witnessed writing received prior to death in the employing office or, if insured because of receipt of annuity or of benefits under the Federal Employees' Compensation Act as provided in section 6(b) or 6(c) of this Act, in the Commission. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;"

SEC. 2. The first item of the order of precedence in section 11(c) of the Civil Service Retirement Act, as amended (5 U.S.C. 2261(c)), is amended to read as follows:

"First, to the beneficiary or beneficiaries as the employee or Member may have designated by a signed and witnessed writing received in the Commission prior to his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;"

Approved March 23, 1966.

Federal em-
ployees' bene-
ficiaries.
Life insurance.
68 Stat. 738.

39 Stat. 742.
5 USC 751 note.
73 Stat. 701.
5 USC 2095.

Retirement
benefits.
70 Stat. 755.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 508 (Comm. on Post Office & Civil Service).
SENATE REPORT No. 1064 (Comm. on Post Office & Civil Service).
CONGRESSIONAL RECORD:

Vol. 111 (1965): June 21, considered and passed House.
Vol. 112 (1966): Mar. 14, considered and passed Senate.

